

APPENDIX 1

Deputy Leader/Cabinet Member for Culture, Recreation and Strategic Commissioning and Cabinet Member for Resources	
August 2012	PUBLIC REPORT

Cabinet Members responsible:	Deputy Leader and Cabinet Member for Culture, Recreation and Strategic Commissioning and Cabinet Member for Resources	
Responsible Officer(s):	John Harrison, Executive Director – Strategic Resources	Tel. 01733 452520

**WASTE 2020 PROGRAMME
ENERGY FROM WASTE FACILITY AND OTHER ASSOCIATED WORKS AND SERVICES**

RECOMMENDATIONS	
FROM : Executive Director – Strategic Resources and Head of Strategic Client Services	Deadline date: Not applicable.
<p>The Cabinet Members are recommended, in relation to the:</p> <p>Energy from Waste Facility (including construction of a waste transfer station, weighbridge and site infrastructure and services associated in operating the Energy from Waste Facility):-</p> <ol style="list-style-type: none"> (1) To identify the name of the preferred bidder for the energy from waste facility as Viridor Waste Management Limited which submitted the most economically advantageous tender; (2) To agree that on expiry of the call-in period relating to this decision, Viridor Waste Management Limited be formally appointed as preferred bidder for the contract on suitable conditions to include award of the contract subject to:- <ul style="list-style-type: none"> - expiry of the Alcatel (standstill period); - satisfactory resolution of any outstanding matters and completion of a suite of legal documents applying to the contract; (3) To grant a 33 year contract which includes a 3 year construction period and 30 year operating period; (4) To authorise the Executive Director – Strategic Resources, in conjunction with the Solicitor to the Council, to determine any issues that may require resolution and to authorise any action to enable the suite of legal documents to be completed, to include finalising the business case referred to in the budget recommendation below; and <p>Interim Services:</p> <ol style="list-style-type: none"> (5) To decline to exercise the option for interim management of the waste transfer station by the preferred bidder as referred to in the invitation for final tenders; and (6) To award the interim management services to Enterprise Peterborough and include them in the Enterprise Peterborough strategic partnership subject to finalising its inclusion in that partnership. <p>Budget:</p> <ol style="list-style-type: none"> (7) To approve:- <ol style="list-style-type: none"> (a) the differing capital and revenue costs resulting from this project when compared to the Medium Term Financial Strategy, as the project requires higher capital investment initially but guarantees greater revenue savings over the life of the project to more than offset this initial investment; (b) a reduction in the capital budget for the new materials recycling facility of £1.5m to be off set 	

- against an increase in the capital budget for the energy from waste facility
- (c) an overall net increase of £16.019m in the capital budget, from £59.838m to £75.857m, taking into account the reduction in (a) above to support the investment required in the energy from waste facility
- (d) the use of the Invest to Save budget agreed by Council for these purposes to support the net increase in the capital budget
- (e) to note the revenue savings being built into the next Medium Term Financial Strategy as a result of this project, and
- (f) provided that this project continues to demonstrate savings to the Council and a continued adherence to the Invest to Save principles, to authorise the Executive Director – Strategic Resources to agree the final price for the project when the notice to proceed is given as price may vary depending on the exchange rate and the agreed indexation at that time

Household recycling facility:

- (8) To authorise the Executive Director – Strategic Resources to examine the feasibility of a new household recycling facility potentially located at the former RSG building in Fengate.

Combined heat and power and district heating:

- (9) To authorise the Executive Director – Strategic Resources to examine the feasibility for combined heat and power and district heating and the infrastructure and networks necessary to support these;
- (10) To authorise a supplementary budget of £500,000 for this purpose.

Professional services:

- (11) To confirm authority for the final spend of up to £5.5m on professional advisers costs on all the various projects included in the whole Waste 2020 Programme (approximately 7% of the project budget)

1. ORIGIN OF REPORT

- 1.1 In February 2007 the Council resolved that there should be:
 - an integrated waste management solution for Peterborough as part of the waste management strategy,
 - a commitment to recycle and compost 65% plus and
 - an energy from waste facility capable of generating heat and power and
 - a new materials recycling facility.
- 1.2 It was also acknowledged there would be a need for a series of executive decisions to implement delivery of this solution and infrastructure to deliver this.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to provide additional background information for a decision to be made on the final tender evaluation, identification of preferred bidder for the energy from waste facility and associated works and services by:
 - the Deputy Leader and Cabinet Member for Culture, Recreation and Strategic Commissioning exercising delegated authority under paragraph 3.3.8 of the constitution in accordance with the terms of his portfolio at paragraph 3.5(i) and (n), and
 - the Cabinet Member for Resources exercising delegated authority under 3.3.8 of Part 3 of the constitution in accordance with the terms of his portfolio at paragraph 3.9(b).
- 2.2 There is 1 appendix to this report setting out the timeline for implementing this decision.

- 2.3 There are 5 exempt annexes to this report which are NOT FOR PUBLICATION in line with paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972 as they contain information relating to bidders' final tenders, the outcome of the evaluation process and prices, proposals evaluation and the outcome of the interim services proposals, all of which contain commercially sensitive information affecting their respective business positions and where they are ranking in the procurement process. The public interest test has been applied to the information contained in the exempt annexes and it is considered that the need to retain this information as exempt outweighs the public interest in disclosing it because to do so would compromise the respective positions of the Council and bidders in relation to these major procurements, market confidence, probity and integrity in the Council's procurement process if these details were not retained as exempt.

3. **TIMESCALE**

Is this a Major Policy Item/Statutory Plan?	NO	If Yes, date for relevant Cabinet Meeting	N/a
---	-----------	---	-----

4. **BACKGROUND – DECISION-MAKING**

- 4.1 Following the resolution of the Council in February 2007 that there should be an integrated waste management solution for Peterborough as part of the waste management strategy, the then Leader of the Council decided on 17 January 2008 that the Council would procure the necessary services to enable the waste management infrastructure to be delivered.
- 4.2 On 31 December 2009, the Deputy Leader of the Council and then Cabinet Member for Environment Capital and Culture took an executive decision which, included that:-
- (a) three bidders would be invited to participate in competitive dialogue for Lot 1 (energy from waste facility) which in alphabetical order were Kier Limited, Shanks PLC and Viridor Waste Management Limited;
 - (b) three bidders would be invited to participate in competitive dialogue for Lot 2 (materials recycling facility) which in alphabetical order were Greenstar Holdings Limited, Shanks Group PLC and Viridor Waste Management Limited;
 - (c) delegations to the then Deputy Chief Executive and/or Executive Director – Strategic Resources in consultation with the Deputy Leader and Cabinet Member for Environment Capital and Culture (and where necessary the Solicitor to the Council) to:-
 - resolve any issues whether of a strategic, operational or other nature (including any that crossed departments) during the remainder of the procurement process to ensure effective and timely progress to be made;
 - to select those bidders to be shortlisted for the detailed solution stage and later stages of the procurement but not the award of contracts which would be referred to the Deputy Leader for a further executive decision.
- 4.3 Following the withdrawal of Shanks PLC from the Lots 1 & 2 procurement, the Deputy Leader, in consultation with the Executive Director – Strategic Resources decided in June 2010 that the fourth ranked bidders should be invited to make up the 3 bidding slots. Biffa Waste Services Limited was invited to participate in Lot 1 and Community Waste Services was invited to participate in Lot 2.
- 4.4 Biffa Waste Services Limited however withdrew from the Lot 1 procurement and the Deputy Leader, in consultation with the Executive Director – Strategic Resources decided that the Lot 1 procurement would proceed with only the two remaining bidders – Kier Limited and Viridor Waste Management Limited. These two bidders were invited to submit outline solutions.

- 4.5 Greenstar Holdings PLC subsequently withdrew from the Lot 2 procurement. Following that withdrawal, the Deputy Leader, in consultation with the Executive Director – Strategic Resources decided that the Lot 2 procurement would proceed with the two remaining bidders – Community Waste Limited and Viridor Waste Management Limited.
- 4.6 On 4 January 2011, the Deputy Leader, in consultation with the Executive Director – Strategic Resources considered and decided that the outline solutions for both Lots 1 and 2 were sufficient for each of the parties to proceed through to the next stage of the procurement known as the detailed solutions stage.
- 4.7 In March 2011, the strategic partnership with Enterprise Peterborough was launched. Part of the services that are being provided by Enterprise Peterborough include collecting refuse and recycling. This forms part of the overall strategy to provide an integrated waste management solution for Peterborough.
- 4.8 On 3 August 2011, following consideration of the detailed solutions for Lot 1 submitted by Kier Limited and Viridor Waste Management Limited, the Deputy Leader, in consultation with the Executive Director – Strategic Resources, decided that the detailed solutions submitted by these two bidders should be taken through to the final tender stage of the procurement.
- 4.9 On 14 July 2011 the Environment Capital Scrutiny Committee agreed to disband the Members' Waste and Recycling Task and Finish Group and that Scrutiny Committee itself would continue to monitor the Waste 2020 Programme.
- 4.10 On 29 September 2011, following consideration of the detailed solutions for Lot 2 submitted by Community Waste Limited and Viridor Waste Management Limited, the Deputy Leader, in consultation with the Executive Director – Strategic Resources, decided that the detailed solutions submitted by these two bidders should be taken through to the final tender stage of the procurement.
- 4.11 On 30 November 2011, Viridor Waste Management Limited publicly announced that it had taken over Community Waste Limited.
- 4.12 This take-over reduced competition for Lot 2 but at the same time it opened up other opportunities for the Council to consider. In March 2012, the Deputy Leader, in consultation with the Executive Director – Strategic Resources and the Solicitor to the Council, determined that it would be appropriate, practical and sensible for the Council to consider extending the scope of Lot 1 to include a waste transfer station as a collection point for the Council's recycling. There would also need to be an interim service solution for the waste transfer station pending a more permanent solution for treating recycling. In this way, the Council would have a solution in place for when the existing materials recycling facility closes in June 2013.
- 4.13 The final tenders for Lot 1 were invited to include this slightly extended scope and the Lot 2 procurement was halted.
- 4.14 Final tenders have been received for Lot 1 and have been carefully evaluated. This report accompanies the Cabinet Member decision notice to the Deputy Leader and Cabinet Member for Culture, Recreation and Strategic Commissioning and the Cabinet Member for Resources for a decision to be made.
- 4.15 Sustainable Growth and Environment Capital Scrutiny Committee at its meeting on 13 June 2012 received an update on the tender evaluation and outcome. Members of that Scrutiny Committee were given the opportunity to ask questions and raise their issues in relation to the procurement process and the proposed facility. The Scrutiny Committee endorsed the actions being taken in relation to this decision.

5. BENEFITS

5.1 In 2007 when the Council resolved that doing nothing was not an option:

- The Landfill Allowance Trading scheme (LATs) at the time was likely to add significant cost to the disposal of waste to landfill if Councils were unable to comply with the limits set by the scheme. Each Council was allocated a limited number of 'permits' which allowed the disposal of waste to landfill and each year the allowance reduced, encouraging alternatives to landfill and trading permits between Councils. Any Council that failed to secure enough permits and thereby exceeded their allowance would be fined up to £150 per tonne of waste landfilled in excess of their allowance, as well as the costs of paying for the landfill itself and the associated landfill tax. Following a review of environmental legislation the present Government considered that Landfill Tax was a more effective tool in driving the move from landfill disposal and decided that LATs was to be ended in 2013/14. Although, the landscape of financial imperatives has changed for the Council, landfill tax is continuing to rise and will reach £80 per tonne in 2015, a level below which the government has confirmed it will not fall. Landfill tax is now seen as the key driver for change with LATs no longer being required. However, for financial reasons alone it is not an option to keep landfilling waste.
- The environmental reasons for moving away from landfill remain as relevant today as they did in 2007. However ever increasing energy prices and the Council's recent development of an energy services company (ESCo) brings a range of additional benefits that were not available previously. The Council would be able, through its ESCo, to limit its exposure to price increases it has to pay for electricity it uses by allowing the ESCo to trade in the power generated by the energy from waste facility. The ESCo would also be able to examine the potential for the development of a district heating network, supplied with heat energy from the energy from waste facility, which could bring further income potential to the Council as well as improving the amount of energy recovered and the subsequent environmental benefit derived from this.

5.2 An energy from waste facility will provide a number of benefits, both commercially and environmentally to the Council.

5.3 Environmentally, the energy from waste facility will prevent over 1.3 million tonnes of waste being sent to landfill over the life of the contract. The waste going to the energy from waste facility will generate energy, thereby recovering energy from waste. This will result in the generation of renewable electricity local to Peterborough. This power generation will enable the Council to avoid the cost impact of rises in electricity costs above inflation and to receive income from electricity that is sold to the grid.

5.4 Overall, this will allow the Council to reduce its carbon footprint compared to sending its waste to landfill sites.

5.5 The energy from waste facility also has to be capable of providing heat along with energy. This means that in the future, heat can be taken from the facility and used to provide hot water to local businesses and homes, should this prove economically viable. This would further improve the efficiency of the energy from waste facility, producing further CO₂ savings and displacing additional fossil fuel use.

6. PLANNING AND ENVIRONMENTAL PERMITTING:

6.1 In order to de-risk the energy from waste facility, the Council obtained planning permission and an environmental permit. Both applications were based on a reference facility and it was always accepted that:-

- (a) the Council could not invite bids to build a facility exactly the same as the reference facility and technology because this would have been anti-competitive and distorted competition under the EU procurement regulations in that it would have meant only one single supplier could have bid for the contract; and

- (b) whichever bidder and technology was ultimately successful in the procurement, it would require the bidder to obtain changes to the planning permission and environmental permit to accommodate the solution being put in place.

6.2 The changes relevant to each bidder are referred to in exempt annexes 2 and 3.

6.3 If for any reason, planning became an issue on the energy from waste facility, the Council would be limited in the options it has available to treat its residual waste in the future and the Council would have to continue to use landfill sites. There is at present no certainty over the period of time local disposal facilities will remain available and information suggests there will be no suitable sites available after 2021 within easy reach of Peterborough. If one of the two existing sites in Peterborough closes, there can be no certainty for the Council in being able to access competitive prices for landfill. The Council would therefore have to commence a new procurement exercise to secure a long term landfill solution for its residual waste to take it beyond the time when the local sites close.

7. AFFORDABILITY:

7.1 The bidders have been provided with the Council's affordability envelope and have been instructed that their proposals for building, maintaining and operating an energy from waste facility and waste must be delivered within the affordability envelope.

7.2 The costs of treating the waste using current facilities are expected to rise significantly over the next 30 years. The landfill tax and its escalated increase is intended to drive councils towards developing recycling and other infrastructure by making the landfill disposal route more expensive. This in turn is intended to help the UK meet its goals under the Landfill Directive. This tax which was introduced in 1996 at £8 per tonne is currently £64 per tonne and is due to reach £80 by 2014/15. Disposal costs including gate fees are expected to exceed £100 per tonne at that point and continue to rise. The affordability envelope referred to above has been based on the cost forecast modelled on expected waste volumes and landfill disposal costs.

7.3 The combined impact of landfill tax, disposal costs and waste volumes would see the cost of waste increasing continuously in the future, well beyond a level that could be sustained. Doing nothing is not an option in financial terms.

7.4 The Medium Term Financial Strategy includes some provision for increasing revenue costs (these will continue to be seen in the short term as large scale landfill diversion will not be possible until the energy from waste facility is operational) and for capital expenditure in the facility's infrastructure. This investment will see the net costs of disposal increase much less sharply from 2015/16 than would be the case under a 'do nothing' option. Over a 30 year period, the total costs of the proposed solution, taking into account the capital financing costs, facility operating costs and income from energy must be lower than the affordability envelope to be financially viable. The Medium Term Financial Strategy will be updated to reflect the exact split of the capital/revenue costs and income of the final solution, within the overall affordability parameters already set.

7.5 The October 2010 Comprehensive Spending Review and the impact of this on the Medium Term Financial Strategy equating to £25m net funding loss to the Council by 2014/15 and pressures in other service areas (such as adult social care) means that the Council needs to look at alternative ways of providing services. This issue compounds the cost issue that the Council faces in this area reinforcing the need to develop an alternative way forward.

8. PROCUREMENT PROCESS:

8.1 The Council has used the Competitive Dialogue Procedure under the EU procurement rules to procure a suitable partner. The Competitive Dialogue Procedure is recognised as being appropriate for this type of procurement, where there is a complex solution which requires innovation from the bidders, because the process enables the Council to work with the bidders to assist them in developing their solutions to meet the Council's requirements and

aspirations. The Competitive Dialogue Procedure is a rigorous process and involves a number of stages as outlined below.

8.2 In spring 2009, the Council advertised in the Official Journal of the European Union for interest from the market for a suitable partner for the Lot 1 and Lot 2 procurements. There are several stages to a procurement under the Competitive Dialogue Procedure as follows:-

Stage 1 – Prequalification:

8.3 This involved bidders expressing their interest by submitting a prequalification questionnaire. 3 bidders were selected to be taken forward to the next stage (outline solution stage) for both Lots 1 and 2.

- For Lot 1: bidders initially selected were Kier Limited, Shanks PLC and Viridor Waste Management Limited.
- For Lot 2: bidders initially selected were Greenstar Holdings PLC, Shanks PLC and Viridor Waste Management Limited.

Stage 2 – Outline Solution Stage:

8.4 This stage involved bidders submitting outline solutions (outline proposals) after intensive dialogue with bidders on the Council's requirements and the bidders' proposals to meet those requirements.

8.5 Before the Council had invited outline solutions (outline proposals) from bidders, there were some events that gave rise to changes in bidders.

- For Lot 1: Shanks PLC withdrew from the procurement and Biffa Waste Services Limited was invited as a replacement for Shanks PLC. So outline solutions were invited from Biffa Waste Services Limited, Kier Limited and Viridor Waste Management Limited. Biffa subsequently withdrew from the procurement, leaving the Council with the two remaining bidders.
- For Lot 2: Shanks PLC and Greenstar Holdings PLC both withdrew from the procurement leaving Viridor Waste Management Limited. Community Waste Limited was invited as a replacement bidder for Shanks PLC. No other replacement bidder was invited when Greenstar Holdings PLC withdrew because this occurred after the Council had issued the invitation to bidders to submit outline solutions. So this left Community Waste Limited and Viridor Waste Management Limited as the remaining bidders.

8.6 Biffa Waste Services Limited, Greenstar Holdings PLC and Shanks PLC withdrew from the procurements for their own commercial reasons.

8.7 Following evaluation of the outline proposals submitted by bidders the following bidders' solutions were selected to go forward to the next stage:-

- Lot 1: Kier Limited and Viridor Waste Management Limited.;
- Lot 2: Community Waste Limited and Viridor Waste Management Limited.

Stage 3 – Detailed Solution Stage:

8.8 The bidders were then invited to submit their detailed solutions (detailed proposals for the facilities and services) and further intensive dialogue followed between the bidders and the Council to assist bidders to develop their detailed proposals for each of Lot 1 and Lot 2.

8.9 During this stage, there were also presentations by the bidders to Councillors and visits to bidders' chosen locations by Councillors and senior client officers. The visits to the bidders' locations allowed an opportunity for bidders to choose facilities that demonstrated their

proposals being offered in Peterborough and gave Councillors and senior client officers the chance to see first hand what the bidders' operations were like elsewhere. The visits were paid for by the bidders (and not the public purse). Following submission and evaluation of bidders detailed solutions, the following bidders' solutions were selected to go forward to the next stage:-

- Lot 1: Kier Limited and Viridor Waste Management Limited;
- Lot 2: Community Waste Limited and Viridor Waste Management Limited.

Stage 4 – Final Tender Stage:

- 8.10 Ahead of calling for final tenders, the Council conducted a final round of dialogue with the bidders to deal with any outstanding commercial points and to assist the bidders in developing and refining their final tenders.
- 8.11 During this period Viridor Waste Management Limited announced it had taken over Community Waste Limited which impacted on the Lot 2 procurement. This raised issues for the Council in relation to competition on Lot 2 but at the same time it opened up an opportunity for the Council to re-assess the situation and slightly extend the build scope of Lot 1 to include the construction of a waste transfer station, weighbridge and site infrastructure. It was also recognised that there would also be a need for interim services to operate the waste transfer station pending a more permanent solution for treating the Council's recycling. It was decided that the most practical course was to include a short term interim service within the final tender scope but as an option which meant the Council could choose to award the interim services as part of Lot 1 or award them to an alternative provider. Consequently, the Lot 2 procurement was halted.
- 8.12 The Council, therefore, invited final tenders on the slightly amended scope.
- 8.13 Final tenders were submitted by:-
- Kier Limited; and
 - Viridor Waste Management Limited;
- and following rigorous evaluation of the final tenders, the Council is now ready to identify its preferred bidder for the energy from waste facility.

9. EVALUATION METHODOLOGY AND IDENTIFICATION OF PREFERRED BIDDER FOR ENERGY FROM WASTE FACILITY

- 9.1 The final tender evaluations were carried out in line with the evaluation methodology which was pre-determined by the Council and issued to the bidders. The underlying principle was for the Council to seek the most economically advantageous final tender based on the following:-

Quality: 60%

- 9.2 In outline, the Quality evaluation consisted of the following prime tiers:-

- **Works delivery;**
- **Landfill diversion;**
- **Environmental and sustainability;**
- **Service management;**
- **Operational and contract management systems;**
- **Handback;**
- **Stakeholder liaison; and**
- **Legal and commercial.**

- 9.3 Each of the first seven quality criteria were designed to test the bidders' responses on service delivery and standards in line with the Council's requirements and the extent to which they offered value for money to the Council.

- 9.4 The last criteria was designed to test the impact of bidders' solutions on the risk position.
- 9.5 Each of the prime tiers was then broken down into sub-tiers and each sub-tier marked and weighted to give an overall quality score.

Price: 40%

- 9.6 In outline, the Price evaluation consisted of the following prime tiers:-
- **Affordability and economic cost; and**
 - **Financial quality criteria.**
- 9.7 Bidders were required to submit a fully worked up financial model and bid forms to provide fully priced solutions. The cost of the solutions included the following:
- The capital cost of constructing the facility (and the cost to the council of borrowing to fund this);
 - Annual running costs of the facility;
 - Income generated from the energy generated.

The full cost over the 33 year contract period was assessed. The affordability and economic cost are the net present value of the overall cost of the solution, the payment profile and the sensitivity of the bidders' prices to varying economic assumptions (eg. exchange rates and inflation).

- 9.8 Each of the prime tiers was then broken down into sub-tiers and each sub-tier marked and weighted to give an overall price score.
- 9.9 Exempt annex 2 (Bidders' scores) sets out the scores for each of the bidders. Exempt annex 3 (Quality reasons) sets out the reasons for the quality scores referred to in exempt annex 2.
- 9.10 Exempt Annex 4 (Price reasons and wider financial considerations) sets out the reasons for the price scores and the wider financial considerations referred to in Exempt Annex 2
- 9.11 Although the competition between the two bidders was strong, and both bidders submitted credible and commendable final tenders, as a result of the evaluation of final tenders, Viridor Waste Management Limited is considered to represent the most economically advantageous tender to the Council.

10. PERIOD OF THE CONTRACT

- 10.1 The Council required bidders to submit final tenders on the basis of a 33 year period which equates to 3 years construction and 30 years operating the facility.

11. TIMESCALES FOR COMMENCEMENT OF THE CONTRACT

- 11.1 Appendix 1 to this report sets out the headline timescales leading up to commencement of the contract. There will be detailed mobilisation and communications plans with the preferred bidder.

12. PREFERRED BIDDER IDENTIFICATION AND APPOINTMENT AND AWARD

- 12.2 Having carefully evaluated the final tenders in line with the evaluation methodology, both bidders have submitted credible bids. However, the outcome of the evaluation has revealed that Viridor Waste Management Limited has provided the final tender that is most economically advantageous to the Council and is therefore recommended as the preferred bidder for the energy from waste facility contract. The name of the proposed preferred bidder has been included in the decision (rather than waiting until expiry of the call-in period) to end any uncertainty over who this is. Once the call-in period has expired, the

Council will formally identify and appoint Viridor Waste Management Limited as its preferred bidder. That appointment will contain conditions on such matters as:-

- award of the contract subject to expiry of the Alcatel (standstill) period;
- satisfactory resolution on any outstanding matters and completion of a suite of legal documents in readiness for the contract start.

13. ALCATEL (STANDSTILL) PERIOD

13.1 As soon as the preferred bidder is identified, the Council will inform appropriate parties in line with the EU procurement rules. It is necessary to allow a 10 day standstill period to enable any challenges to be made in respect of the Council's decision. If any challenge were to be made, the Council would need to dispense with that challenge.

14. OFFICER DELEGATIONS

14.1 It is not unusual in contracts of this nature for there to be matters that need to be expediently resolved in the final stages and any such matters may require high level input. For this purpose, it would be appropriate for the Executive Director – Strategic Resources in consultation with the Solicitor to the Council to be authorised to determine any high level strategic or other issues that may require to be dealt with and to authorise any action necessary to be taken on any such matters to enable the suite of legal documents to be completed.

14.2 Additionally, because of the nature of the contract, there will need to be a certificate issued to the preferred bidder to confirm that the Council has the power to enter into the contract. This certificate will be given under Section 3 of the Local Government (Contracts) Act 1997 by the Solicitor to the Council

15. INTERIM SERVICES

15.1 An option was included in the Lot 1 final tenders for bidders to submit prices for providing an interim service to operate the waste transfer station on the understanding that the solutions and price being offered by the highest ranked bidder would be benchmarked against an alternative provider. This gave the Council the ability to include the interim service in Lot 1 if the preferred bidders' price and service solution offered the best overall solution for the Council. If not, then the Council could exercise its discretion not to include the interim services in Lot 1 and to award them to the alternative provider.

15.2 Details of the interim services offerings and evaluation outcome are set out in Exempt Annex 5 (Interim Services).

15.3 The interim services are required to be put in place to ensure that in when the existing materials recycling facility closes, there is a provider to operate the waste transfer station for the Council's recycle.

16. OTHER MATTERS

16.1 The opportunity has been taken to obtain a decision on some other matters relevant to the Waste 2020 Programme to enable these to be expediently progressed as follows:-

(a) Household recycling facility:

16.2 Under the Environmental Protection Act 1990, the Council is required to have in place a facility where the public can take bulky items of waste which are too big or not otherwise suitable for collection through the normal refuse collection service and which enables them to dispose of such items free of charge.

16.3 The Council's existing household recycling facility at Dogsthorpe will close in October 2014. Before the Dogsthorpe facility closes, the Council will need to have in place an alternative facility. The Council owns the former RSG site in Fengate and initial assessments indicate that this may be a suitable replacement site. It is proposed that authority be given to the Executive Director – Strategic Services to carry out further feasibility work to establish a suitable replacement location in readiness for when the Dogsthorpe facility closes.

(b) Combined heat and power and district heating:

16.4 The energy from waste facility will be designed such that it can easily be adapted to provide heat and energy as well as generating electricity. This is known as combined heat and power (CHP). A study will be commissioned to look into the detail of potential users for heat and the cost and implications of installing piping to carry hot water (or possibly steam) to users.

(c) Professional Services:

16.5 The Waste 2020 Programme has required the services of a number and range of specialist professional advisers to support this complex programme and the projects within it. These professional advisers have provided specialist support on programme management, legal, financial technical, insurance, planning, environmental and communications matters. This advice has been provided across the whole Waste 2020 Programme since 2007 to close of the programme and will total up to £5.5m.

17. CONSULTATION

17.1 The Deputy Leader has held a number of presentations for City Councillors informally and at All Party Policy and Cabinet Forum meetings on the Waste 2020 Programme and he regularly updates all Councillors in written briefings/letters. Presentations were made to All Party Policy on 28 October 2010 and to Cabinet Policy Forum on 14 February 2011. Updates by way of briefings and letters from the Deputy Leader to Councillors were done in July 2010, October 2010, June 2011 and May 2012. In addition, the Deputy Leader has answered a number of queries from individual Councillors on the Waste 2020 Programme.

17.2 The Deputy Leader has also held bidders' presentations in November 2010 to which Councillors were invited during the bidding stage and in February/March 2012 a party of Councillors and senior client officers visited the locations chosen by bidders to flagship their facilities and proposals.

17.3 The Deputy Leader has also consulted with the Cabinet Member for Resources, Executive Director – Strategic Resources, Solicitor to the Council and Head of Strategic Client Services throughout the process.

17.4 The Deputy Leader and/or senior client officers have attended a number of meetings of Environment Capital Scrutiny Committee on 14 January 2010 and 3 November 2011 and the Members Waste and Recycling Task and Finish Group (formerly the Members' Waste and Recycling Working Party) to discuss and update Scrutiny Members on the Waste 2020 Programme and procurements.

17.5 Senior client officers have also held regular meetings Peterborough for Responsible Waste Management (PFoRWM) which is a specialist interest group.

17.6 Senior client officers have also held informal pre-planning and pre-permitting application meetings with neighbours in Fengate to explain the Council's proposals for the Fengate site to ensure they understood the plans, to allay any concerns and to enable discussions on such matters as traffic impact, heat and power generation etc. These informal meetings were, of course, followed by the formal planning/permitting consultation processes.

18. ANTICIPATED OUTCOMES

- 18.1 The outcome of the decision will enable the Council to provide a guaranteed treatment facility that will divert all of Peterborough's municipal waste from landfill and provide cost certainty for the next 30 years and beyond. The energy from waste facility will be highly efficient and will recover energy from the waste allowing the Council to benefit from the generation and sale of electricity, protecting the Council from escalating energy costs. The facility is designed as combined heat and power enabled which means that a district heating scheme can be added in future to provide heat energy to local industry and Council facilities. In diverting waste from landfill the energy from waste facility will save significant CO2 greenhouse gas emissions that would otherwise have been released.

19. REASONS FOR RECOMMENDATIONS

- 19.1 The reasons for the recommendations are stated in the preceding paragraphs of this report.

20. ALTERNATIVE OPTIONS CONSIDERED

- 20.1 The alternative options that have been considered and rejected are:-

Do nothing: This was rejected for the financial, environmental and operational reasons as detailed in this report. To amplify on the environmental reasons for moving away from landfill, they remain as relevant today as they were in 2007. However, ever increasing energy prices and the Council's recent development of an energy supply company (ESCo) brings a range of additional benefits that were not previously available. The Council, through the ESCo, is able to limit its exposure to the price increases it has to pay for electricity by allowing the ESCo to trade in the power generated by the energy from waste facility. The ESCo would also be able to examine the potential for the development of a district heating network, supplied with heat energy from the facility, which would bring further income potential to the Council, as well as improving the amount of energy recovered and the subsequent environmental benefits derived from this.

Not constructing and operating the Council's own energy from waste facility: This was rejected because it would mean the Council would have to continue to use landfill sites where these remain available locally, whilst also making provision to construct a waste transfer station to allow access to landfill sites or alternative treatments further afield than can be economically accessed by refuse collection vehicles. There is presently no certainty over the period of time local landfill sites will remain available but present information suggests that local sites will not be available after 2021. If the two sites currently in Peterborough close, there is no certainty of the Council being able to access competitive prices for landfilling and a sensible option would therefore be to build a transfer station to allow greater competition for any subsequent tendering exercises. This at least would allow the Council to procure treatment (landfilling or other disposal method) should capacity be available at other facilities. However, this would involve transporting the Council's waste over a significant distance as there would be no nearby facilities that have a guaranteed capacity to take the Council's waste and haulage costs would variable component in the Council's treatment and disposal costs.

Proceed with Lot 2 (and not include basic infrastructure in Lot 1): This was rejected because there was an opportunity for the Council to slightly extend the Lot 1 scope, ensuring the waste transfer station will be in place for when the existing materials recycling facility closes in June 2013. Additionally, there is no longer the need that there was in 2007 for the Council to build a new materials recycling facility (which saves on capital investment) as the market's landscape has significantly changed with many more facilities being available and offering good rates for recycle.

Negotiate with, or seek a bid, from a single supplier for the energy from waste facility (Lot 1): This was rejected because the Council is obliged to comply with the EU Procurement Regulations for the provision of such major infrastructure and services.

Seek a permanent solution now to operate the waste transfer station: This was rejected because the Council needs confidence that the arrangements are in place ready for when the existing material recycling facility closes. The Council will seek to re-let a more permanent solution for the longer term.

21. IMPLICATIONS

21. The implications are set out in the body of the report

22. BACKGROUND DOCUMENTS:

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

The Council's Medium Term Financial Plan;
Notice published in Official Journal of the European Union;
Prequalification questionnaires issued and submitted by bidders (exempt as commercially sensitive and confidential); and
Invitation to participate in competitive dialogue issued during the procurement and bidders' outline, detailed and final tender responses (exempt as commercially sensitive and confidential).

22. APPENDICES:

There is one Appendix (which is not exempt) to this report and 5 exempt annexes.

This page is intentionally left blank