

Item No.	Classification: Open	Date: 5 February 2013	Decision Taker: Cabinet Member for Transport, Environment and Recycling
Report title:		SELCHP Heat Project: (Southwark District Heating Network : Additional Services Contract)	
Ward(s) or groups affected:		Rotherhithe/Riverside/Grange/South Bermondsey /Livesey	
From:		Strategic Director of Environment and Leisure	

RECOMMENDATION

1. That the Cabinet Member for Transport, Environment and Recycling notes that the outstanding points on the Heads of Terms have been agreed, and therefore gives approval for the contract for heat services contract to be entered into with Veolia Environmental Services Southwark (VESS) the provision of low carbon heat from the South East London Combined Heat and Power (SELCHP) plant on the terms previously agreed in the approval of the Gateway 2 report to Cabinet on 15 May 2012 subject to the council's external advisers confirming that the contract complies with European regulations pertaining to procurement.

BACKGROUND INFORMATION

2. Southwark Council signed a contract with Veolia Environmental Services Southwark Ltd (VESS) in February 2008 to build a new waste facility on the Old Kent Road (OKR) and deliver an integrated waste management contract. Greater London Authority (GLA) and Southwark planning policies dictate that this facility should have 20% of its energy consumption supplied from renewable sources. Because this was not considered to be feasible at the OKR site itself, a section 106 agreement required VESS to 'offset' the renewable energy requirement, using low carbon renewable heat generated from waste. The OKR facility will send "solid recovered fuel" (SRF) generated from waste to the South East London Combined Heat and Power (SELCHP) plant.
3. At Cabinet on 25 January 2011, approval was given to a Gateway 1 report that sought to open negotiations with VESS for a contract to develop the heat supply network.
4. A further Gateway 2 report was presented to Cabinet on 15 May recommending that the Council agree Heads of Terms in relation to an agreement with VESS and delegated final approval for the award of a contract in this regard to the Cabinet Member for Transport Environment and Recycling, subject to the advice of the Finance Director and Strategic Director of Environment and Leisure.
5. The Heads of Terms (HOTs) for the contract, details which were set out in the Gateway 2 report, set out a number of key principles that summarised the minimum requirements of the Council and which had to be met by Veolia before the contract could be agreed. These key principles included:
 - The cost of heat could be no more than the cost of heating using the current gas boilers. This has been agreed.

- A price indexation mechanism should ensure that the cost of the heat rises less than the expected rise in energy prices. This has been agreed.
 - There could be no capital investment required from the Council. This has been agreed.
 - The full operational risk of the system should be taken by the contractor. This has been agreed.
 - There should be significant environmental benefits including a reduction in CO2 emissions and local pollution. This has been agreed.
 - The project should meet the requirements of the s106 agreement in connection with the waste treatment facility on the Old Kent Road. It is designed to do that.
 - The Council should share in the benefits of any expansion of the heat network.
 - There should be a cap on the level of profitability for the contractor. This has been agreed.
 - The project can only go ahead if it satisfies the requirements of the Leasehold Valuation Tribunal (LVT) to dispense with the need for a s20 consultation. This has been achieved.
6. Agreement to these key principles has been reached through extensive negotiation with VESS and is reflected in the contract. This agreement ensures that as a minimum the Council saves money, avoids financial outlay and achieves its environmental objectives.
 7. On 13 September 2012 the Leasehold Valuation Tribunal gave its approval to the Council's application for a dispensation in respect of the consultation provisions within s20 of the Landlord and Tenant Act 1985.
 8. The Council wishes to contract with VESS to enable VESS to meet the Section 106 planning obligations that it has, as described above. The SELCHP plant is the sole potential supplier of renewable heat for distribution to the Council's properties in this area. Both of these considerations mean that the Council has been negotiating with a sole supplier, which means that the Council has been especially vigilant in ensuring that it, and its leaseholders and tenants, achieve value for money.
 9. In the contract agreed with VESS the council has agreed a price as at April 2013, which will be subject to the indexation parameters set out in the contract. The costs of specialist advisor services needed to support officers in negotiating a good value position for the council have been met by existing budget resources, and the cost of monitoring and managing the contract met from existing staffing establishments.
 10. The contract will commence on signature, which is expected to take place as soon as this report is approved. The current plan is for the system to be operational on October 2013. The contract will expire in April 2033 at the same time as the Waste PFI contract.

KEY ISSUES FOR CONSIDERATION

11. The Key Decision to enter into this contract was taken at Cabinet on 15 May 2012.
12. At that meeting, the Leader of the Council delegated authority to finalise the outstanding points on the Heads of Terms and to enter into the contract to the Cabinet Member for Transport, Environment and Recycling, on the advice of the

Finance Director and Strategic Director of Environment and Leisure. Both have been actively involved in this project and confirm that the proposal meets all of the key points set out in the Heads of Terms.

13. The contract has now been drafted on a basis that reflects all of the principles in the Heads of Terms approved by Cabinet on 15 May 2012.

Policy implications

14. This project will be seen as a significant and important project on a national scale in relation to a number of policy objectives. Combined Heat and Power (CHP) is an efficient means of energy generation and use, reducing environmental impacts, in particular carbon and nitrogen emissions. It supports policies on sustainability and climate change.
15. Recent UK policy ("Strategy for Household Energy Management") has recommended policy options for existing public sector buildings to connect to district heating schemes and/or provide "anchor" heat loads from which to develop new district heat networks. Current local and regional planning policy is strongly supportive of district heating as a carbon reduction approach.
16. The reduction in emissions and the use of renewable heat has the potential to contribute significantly to the achievement of the Council's policies set out in the Council Plan. Schedule H in the Council Plan states that the Council will "Reduce carbon emissions and NOx pollution from five Southwark housing estates by connecting to new heat network from SELCHP". In addition the project will contribute to the provision of energy security and warm homes and to reducing CO₂ emissions and improving air quality in the borough.

Community impact statement

17. This project will contribute to a reduction in energy costs and a reduction in fuel poverty, as well as a greater energy security, and will help to assure warmer homes in the affected properties. Concerns about running the pipework through Southwark Park, have been eliminated by finding an alternative route for the pipework. Officers now believe that all the community groups consulted and presented to, are supportive of the project.

Consultation

18. A large number of consultation meetings have been held with residents and other stakeholders.
19. Leaseholders affected by the proposal have received a number of letters providing information about the proposed scheme, and were invited to a consultation meeting with Council Officers on 08 May 2012.
20. Leaseholders were invited to comment on the application to the Leasehold Valuation Tribunal and two responses were received, both supporting the scheme.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

21. This report notes that the outstanding points on the Heads of Terms have been agreed and therefore seeks the approval of the cabinet member for transport, environment & recycling for the award of the additional services contract to VESS.
22. The report confirms that all of the council's minimum requirements, as set out in the earlier gateway 2 report, have been met.
23. The report notes that in recognising that the council was negotiating with a single supplier, the council team sought to ensure that it would achieve value for money.
24. The report confirms that a large number of consultation meetings have been held with a range of stakeholders and that all community groups consulted are supportive of the project.
25. The authority to agree the outstanding matters was delegated to the Cabinet Member for transport, environment & recycling by the leader of the council following the advice of the Finance Director and Strategic Director of Environment and Leisure. Both have been actively involved in this project and the report confirms that the proposal meets all of the key points set out in the Heads of Terms.
26. Whilst final confirmation in relation to regulatory compliance with European procurement has not yet been provided, officers are confident that the contract has been negotiated in such a way that all relevant conditions have been fully discharged.
27. This concurrent report has been prepared by the Head of Environment and Leisure Procurement.

Director of Legal Services

28. This report seeks the cabinet member's approval to enter into a heat services contract with VESS as further detailed in paragraph 1. In May 2012 cabinet approved the award of this contract in principle on the basis of the heads of terms agreed at that time, and the Leader delegated authority to the cabinet member for transport, environment and recycling to finalise the outstanding points on those heads of terms and agree the contract, on the advice of the finance and director and strategic director of environment and leisure.
29. Negotiations with VESS have now concluded, with paragraph 5 detailing the outcome of those discussions. External legal advisers have been assisting the council in these final negotiations and agreement of the final form of contract. Approval is therefore now sought to conclude the contract on those terms.
30. The nature and value of these services are such that they are subject to the full application of the EU procurement regulations. As advised in the earlier gateway 2 report, the council is to enter into an additional services contract with VESS to

provide these services, which is permitted under Regulation 14 of the Public Contract Regulations 2006 in these circumstances.

Strategic Director of Finance and Corporate Services

- 31. This report is recommending that the Cabinet Member for Transport, Environment & Recycling agrees that the council enter into the Heat Services contract for the provision of low carbon heat to the council on the terms previously agreed in the approval of the Gateway 2 report to Cabinet on 15 May 2012.
- 32. The key principles of the contract as agreed in the Heads of Terms are noted in particular those elements relating to the cost of heat relative to current council supply, pricing indexation mechanism, capital investment and risk. In negotiating the contractual terms the council has taken steps to mitigate risk to the council as far as is possible for a contract of this size and duration, such that a good value service to service users is maintained.
- 33. The in-house costs of monitoring and managing the contract will be met from existing staffing establishments.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Contract Register Update Form Southwark Combined Heat & Power Project, Project Initiation Document SELCHP Community Heating Scheme – Options Appraisal Gateway 1 report to Cabinet Council Plan Carbon Reduction Strategy Waste PFI s.106 agreement Gateway 2 report to Cabinet	160 Tooley Street, London SE1 2QH	Ian Smith, Head of Sustainable Services, 020 7 52484

APPENDICES

No.	Title
None	

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Environment and Leisure	
Report Author	Ian Smith, Head of Sustainable Services, Environment and Leisure	
Version	Final	
Dated	5 February 2013	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Head of Procurement	Yes	Yes
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Departmental Contract Review Board (DCRB)	Yes	Yes
Corporate Contract Review Board (CCRB)	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	5 February 2013	