

<b>Meeting:</b>	<b>Overview and Scrutiny Committee</b>	<b>Date:</b>	<b>6 January 2020</b>
<b>Subject:</b>	<b>Waste and Street Scene Contract - AMEY</b>		
<b>Report Of:</b>	<b>Cllr Richard Cook, Cabinet Lead for the Environment</b>		
<b>Wards Affected:</b>	<b>All</b>		
<b>Key Decision:</b>	<b>No</b>	<b>Budget/Policy Framework:</b>	<b>No</b>
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<b>Appendices:</b>	<b>1. Revised recycling Collection arrangements 9 Dec 2019</b>		
	<b>2. Service Delivery Plan</b>		

## FOR GENERAL RELEASE

### 1.0 Purpose of Report

- 1.1 To provide a summary of the basis for a settlement of a contract dispute with Amey related to the delivery of the Waste and Street Scene Contract.
- 1.2 To permit the Committee to ask questions of the relevant cabinet lead, officers and representatives of the Contractor, Amey

### 2.0 Recommendations

- 2.1 Overview and Scrutiny Committee is asked to consider the information contained in the report and make any recommendations to the Cabinet.

### 3.0 Background and Key Issues

- 3.1 In January 2017 the City Council and its Waste and Street Scene Contractor, AMEY, introduced a revised recycling service which utilised a new fleet of compartmentalised recycling collection vehicles and widened the range of recyclates that could be collected.
- 3.2 On grounds of financial economy the new fleet of vehicles were purchased by the City Council and it was anticipated that the increase in recyclates income would cover the cost and generate additional income to meet savings targets.
- 3.3 The Council's contract with Amey provides that part of the annual contract sum payable to Amey is met from the income generated from the sale of recyclates. However, where the income generated falls short of the contract sum the City Council is liable to make up the shortfall by making "top-up" payments.
- 3.4 In 2017/18 and 2018/19 recyclates income levels fell below the contract sum. In part this was due to industry wide falls in commodity prices, but it also became clear

that quantities of recycling were not achieving market prices because the value of the materials was being undermined by contamination levels of approximately 11%.

- 3.5 As a consequence the Council withheld making the “top-up” payments in both financial years as part of a contract dispute with Amey.
- 3.6 The Council’s dispute coincided with a major restructure of Amey and new management which was open in its willingness to seek to remedy the dispute. As part of the dispute resolution process Amey has:
- a) Strengthened operational management and supervision at the Eastern Avenue Depot
  - b) Agreed a set of Key performance Indicators with financial penalties for non-compliance (see Annex 8 to Appendix 2)
  - c) Adopted a Service Delivery Plan which outlines an agreed approach to delivering Waste and Street Scene Services (see appendix 2)
  - d) Adopted a set of commodity sales contracts (most for two years) which set a floor on commodity prices and offer to match market prices provided that set contamination thresholds are met. (At current prices the added value of these new contracts is expected to be £220,000pa)
  - e) Agreed to transfer an element of risk to Amey such that if recyclates fail to meet the contamination thresholds because of Amey’s actions the financial loss will be met by Amey.
  - f) Agreed to a deducted sum of £225,000 to be retained by the City Council in respect of the 2017/18 and 2018/19 financial years.
- 3.7 The Council, in partnership with Amey has made changes to the recycling scheme which were introduced in December 2019. Details of the revised Scheme are attached at Appendix 1. The Council has also agreed to invest in an upgrade to the baler at Eastern Avenue to increase its resilience.
- 3.8 A Deed of Settlement, Release and Variation has been drawn up to reflect these new arrangements and formally resolve the dispute
- 3.9 A copy of the new Service Delivery Plan is attached at Appendix 2 to this report. The Key Performance Indicators are set out at Annex 8 to that Plan.

#### **4.0 Social Value Considerations**

- 4.1 Effective procurement, delivery and compliance with the Contract ensures that Gloucester offers a clean and well-maintained environment which adds to the well-being of residents and businesses in the City. Amey has supported the work of the Podsmead Clearance Team through the donation of a recently decommissioned ride-on-mower.

#### **5.0 Environmental Implications**

- 5.1 The new recycling scheme and the commodity contracts and contamination thresholds should increase the volume of refuse being collected and sold for recycling and serve to reduce the quantity of waste sent to landfill or incineration.

#### **6.0 Alternative Options Considered**

6.1 The Council's contract with Amey runs to March 2022. Consideration was given to a wide range of alternative options including early termination of the contract. These options were discounted on the basis of cost, disruption and the willingness of Amey to discuss dispute resolution in good faith.

## **7.0 Reasons for Recommendations**

7.1 To enable to Overview and Scrutiny Committee to examine the basis of the Council's dispute resolution with Amey.

## **8.0 Future Work and Conclusions**

8.1 The formal Deed of Settlement, Release and Variance needs to be completed and signed and the new commodity sales contracts need to become fully operational during the final quarter of 2019/20.

8.2 Regular performance monitoring in accordance with the new KPIs has already begun.

## **9.0 Financial Implications**

9.1 As a consequence of the proposals set out in this report

- a) A significant element of risk (arising from the quality of the recyclates collected in Gloucester) will pass from the Council to the Contractor
- b) Contracts are being put in place to mitigate the financial risk to the Council of fluctuating recycling commodity prices
- c) At current market prices the added-value of these changes is approximately £220,000 per year for the remaining two years of the current contract
- d) Amey has agreed to a deducted sum of £225,000 in respect of service delivery issues in 2017/18 and 2018/19

(Financial Services have been consulted in the preparation this report.)

## **10.0 Legal Implications**

10.1 The Deed referred to in paragraph 3.8 will result in a variation to the contract. There is a theoretical risk that the variation may be regarded as sufficiently substantial to render the contract materially different to the one originally awarded in January 2007 to the extent that the service is in essence a new one and should be re-procured. However, the contract document itself contains extensive provisions relating to variation of its terms, reflecting the fact that a service of this nature and lengthy duration will require changes throughout its lifetime. This, and the actual nature of the modifications to the service, are sufficient to meet the requirements of Regulation 72 of the Public Contracts Regulations 2015 which permit necessary modifications to contracts without re-procurement. The risk of challenge is therefore low.

10.2 The terms of the Deed will need to be agreed, then signed or sealed (as appropriate) by both the Council and its contractor.

(One Legal have been consulted in the preparation this report.)

### **11.0 Risk & Opportunity Management Implications**

11.1 The proposals set out in this report will transfer an existing element of service delivery and financial risk from Gloucester City Council to the Contractor – Amey.

### **12.0 People Impact Assessment (PIA) and Safeguarding:**

12.2 The PIA Screening Stage was completed and did not identify any potential or actual negative impact therefore a full PIA was not required.

### **13.0 Community Safety Implications**

13.1 None

### **14.0 Staffing & Trade Union Implications**

14.1 None

**Background Documents:** None