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Zero Waste Project

(City of Edinburgh and Midlothian Councils)

Project Initiation Document

Final

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Zero Waste Project Project Initiation Document (PID) [Fol Version]

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Supporting Documents:

- PIDSD1 Project Mandate
- PIDSD2 Project Brief
- PIDSD3 Project Approach
- PIDSD4 Approach to Competitive Dialogue Process
- PIDSD5 Qualitative Assessment of Procurement Models
- PIDSD6 Management Arrangements
- PIDSD7 Risk Management Guidelines
- PIDSD8 Risk Management Process in Practice
 - Appendix 1: Risk Log Process Map
 - Appendix 2: Issue Log Process Map
 - Appendix 3: Risk Log Template
 - Appendix 4: High Level Risk Log Template
- PIDSD9 Project Data Book
- PIDSD10 Quality Plan
- PIDSD11 Draft Communications Strategy
- PIDSD12 Draft Heads of Terms for Future Governance

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1. Purpose

The Zero Waste Project has been set up to deliver a Contract with the private sector to treat residual municipal waste for City of Edinburgh and Midlothian Councils (“the Councils”). It forms part of a wider programme to deliver a Zero Waste Parc at Millerhill, the Project’s primary site.

A Project Initiation Document (PID) is produced to define all major aspects of a project and forms the basis for its management and the assessment of overall success. There are two primary uses of the document:

- To ensure that the Project has a complete and sound basis before there is any major commitment to the Project;
- To act as a base document against which the Project can assess progress, change management issues and ongoing viability questions.

This Project Initiation Document addresses the following fundamental aspects:

- what the Project is aiming to achieve;
- how it interacts with and complements the Councils wider Zero Waste activities;
- why it is important to achieve the stated aims;
- who will be involved in managing the Project and what their roles and responsibilities will be;
- the budget requirements and affordability limits; and
- the Project timetable.

This document provides the “Baseline” for the Project. It will be referred to whenever a major decision is taken and used at the conclusion of the Project to measure whether the project was managed successfully and delivered an acceptable outcome for City of Edinburgh and Midlothian Councils. The PID is reinforced by a portfolio of *Supporting Documents*.

2. Background

2.1 The Project

The Partner Councils have mandated the start up of a new Joint Project, the Zero Waste Project. (*Supporting Document 1: Project Mandate*).

In preparing this PID the Councils have considered a number of options for procuring residual treatment capacity to include some provision for 3rd party Commercial and Industrial Waste in order to allow for future improvements in waste reduction, re-use and recycling and consequent reductions in residual municipal waste requiring treatment.

The Strategic Forum comprising the Chief Executive Officers and Lead Elected Members of the Councils on 28th January 2009 approved the Initiation

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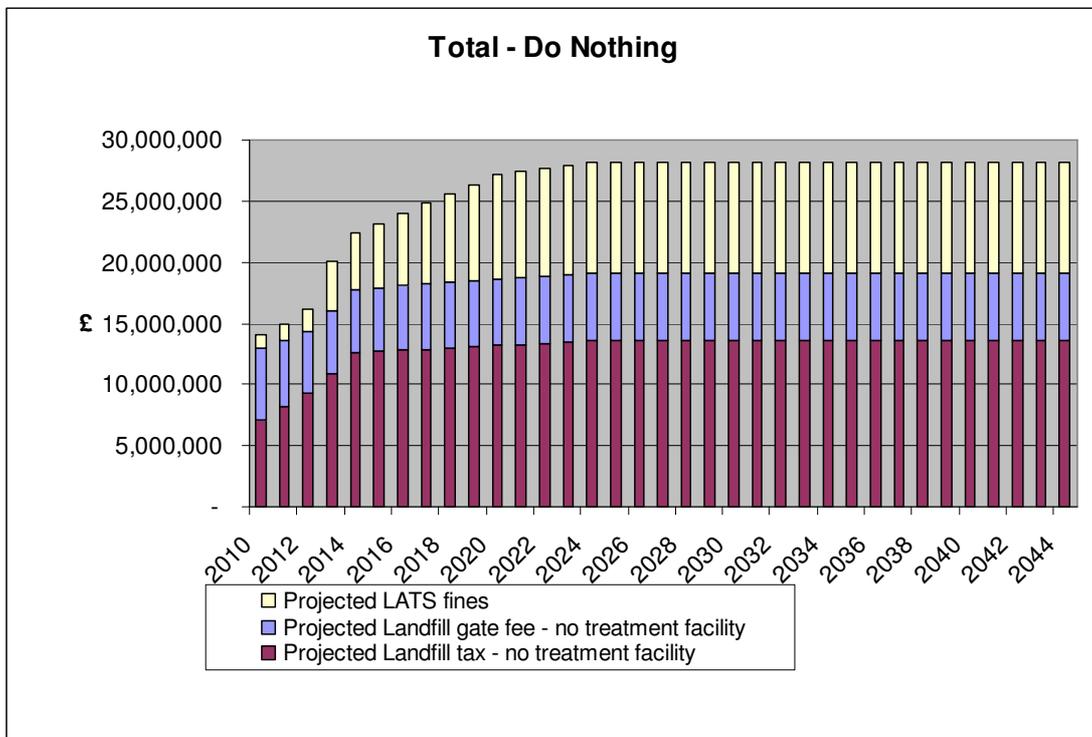
documents¹ of the Project which outline the basic strategy and resources required to deliver this major Project which will have a contract value between [REDACTED]² over a 30 year period. This PID provides much more detail of all aspects of how it is proposed to operate and manage the Project in accordance with the approved Project Brief and Approach.

This Project is part of an integrated approach to sustainable waste management in the Lothian and Borders Area and is inextricably linked to the waste reduction, re-use and recycling activities of the partner Councils and their shared vision of a zero waste future.

The main justification for this Project is that on present trends, the Partner Councils may in coming years incur punitive fines and will incur high landfill tax charges for sending quantities of Biodegradable Municipal Waste (“BMW”) to landfill in excess of the escalating Landfill Allowance Scheme (LAS) and EU landfill diversion targets.

It is acknowledged by the Partner Councils that the “do nothing” option is not viable. In terms of cost the do nothing is, over the medium to long term, the most expensive option and would leave the Councils in breach of the Landfill Directive and Scottish Government Policy.

Figure 1



¹ The Project Brief and Project Approach (*Supporting Documents 2 & 3*)

² Wide variation in costs due to difference in full or part solution explained at Chapter 5.

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Assumptions

- costs expressed at 08/09 levels throughout.
- costs relate to landfilling of residual MSW.
- recycling rates assumed to increase to 39.3% by 10/11 for MLC and to 43.6% by 11/12 for CEC.
- Waste growth per household is assumed to cease.
- Planned housing growth factored in.
- Existing gate fees are ██████ per tonne for CEC (July 2008) and ██████ per tonne for MC.
- Landfill tax increases by £8 per tonne per annum until 14/15, then flatlines at £72 per tonne.
- LATS allowances are based on published national targets for 2012/13 and 2019/20. Allowances are assumed to reduce evenly in between these years.
- LATS fines assumed to be £150 per tonne.
- No ZWF assumed as no diversion has been achieved. ZWF has been included as a funding source when landfill diversion is achieved.

The above table, representing the “Do Nothing” option, shows fines increasing due to decreasing LATS allowances (until 12/13) and projected Landfill Tax increases until 13/14. Gate fees per tonne remain constant throughout. Increased recycling rates until 11/12 suppress otherwise higher total cost increases.

It is recognised that part of the solution to meeting targets involves procuring treatment capacity to recover value from residual municipal solid waste (MSW) in the form of recyclables and energy, thus minimising the need for landfill and further improving the recycling rates of the Partner Councils.

The “do nothing” assumptions are based on current recycling and composting commitments and therefore do not take account of the Councils’ aspirations for increased source-segregated recycling and composting.

2.2 Drivers

All Councils face a number of drivers to reduce their dependence on landfill and introduce more sustainable methods of waste management. The key drivers are:

- European Union Landfill Directive;
- National Policy initiatives to decrease the amount of waste disposed to landfill, including the introduction of the Landfill Allowance Trading Scheme (LATS), and increasing levels of landfill tax, which will significantly increase the cost of this method of disposal;
- Changes in legislation and guidance, and a shift in public demands and perceptions of waste management;
- The Climate Change and Carbon Agenda.

The efforts by the Councils have resulted in major improvements in recycling and composting over recent years. The Councils are currently achieving their best ever levels resulting in a substantial reduction in the amount of waste going to landfill. However, in order to meet recycling and diversion requests some form of residual waste treatment will also be required.

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2.3 Scottish Government Policy

On 24 January 2008, the Cabinet Secretary for Environment, Richard Lochhead, made a Statement to the Scottish Parliament outlining the new Government's policies for a Zero Waste Scotland which included tough new targets to increase recycling, to reduce landfill and to restrict the percentage of municipal waste that should be treated by energy-from-waste (EfW). His Statement also included a number of other specific points which fundamentally changed the previous policy landscape.

Key Policy changes included:

- No support for large EfW plants that have low efficiency levels;
- Strategic Waste Fund discontinued and new Zero Waste Fund established;
- No requirement for existing Councils Groups to work together, although they are not prevented from doing so;
- No requirement to produce Outline Business cases; and
- A Complete review of the National Waste Plan to be undertaken.

Technical Policy Changes

- EfW plants to achieve high thermal efficiency;
- National and regional 25% cap on the use of EfW and AD of mixed waste.

Recycling & Composting Targets

- 50% by 2013
- 60% by 2020
- 70% by 2025

MSW going to Landfill Targets

- 56% by 2010
- 35% by 2013
- 15% by 2020
- 5% by 2025

Core assumptions relating to the Scottish Government Policies are provided at chapter 4.1.

Any contract for residual waste facilities will be expected to provide a solution that not only meets these targets in combination with waste reduction, re-use and source-segregated recycling and composting, but also allows for significant increases over time in such activities without penalty to the Councils. It will not be allowed to 'crowd out' recycling. As the Project progresses, the developing National Waste Plan will be monitored to minimise any divergence from developing policy.

2.4 Policy Effect on Project Scope

With the Scottish Government's restrictions on the use of EfW for treatment of MSW, the Councils take the view, particularly in the medium term because

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source segregated activity alone will not achieve 70% recycling and composting, that some form of MBT treatment of residual waste will be required to bridge the projected gap between kerbside recycling performance and targets and for landfill to remain at the bottom of the waste hierarchy.

While the Councils are keen to encourage solutions that, combined with source segregated activities, achieve the recycling targets in 2020 and 2025, it is recognised that a solution combining both MBT and EfW technologies will result in far greater cost than a single technology solution, will have greater risks in terms of finding outlets for products from MBT, and increases the performance risk.

Partly for these reasons the Councils believe it is prudent to keep open the option of a staged approach involving the procurement of one technology in the interim alongside that of procuring a combined technology solution for 2025 immediately. The modelling carried out and the large range in potential Project value reflects this.

The various MBT technologies offer a wide range of recycling outputs and quality. This will clearly be a key factor in any technology choice.

2.5 Zero Waste Ambitions

In line with Scottish Government aspirations, the Partner Councils have individually signed up to the vision of a Zero Waste Future while recognising that progress towards this long-term goal is still in its early stages. They have already made substantial progress in the area of waste reduction, reuse, source-segregated recycling and composting, and intend to continue to push for further improvements where it is practicable to do so. However they also recognise the pressing need for the medium term recovery of value from residual waste which is currently landfilled if BMW landfill diversion targets are to be met.

While this Project will focus on the need for residual treatment, it is part of the overall progress towards Zero Waste. Therefore it is paramount that any final contract for residual treatment is smart and flexible and does not interfere with the maximum effort by Councils to move collected municipal waste as far up the waste hierarchy as practicably possible in line with the Best Practicable Environmental Option.

The Councils are fully committed to assisting the Scottish Government realise its interim target of 40% recycling and composting by 2010 and are already well on the way to this target. With the continued support of the Scottish Government, the Councils' are currently reviewing and planning improvements to their total waste management systems with a view to contributing to the National target of 50% recycling and composting by 2013, and moving towards the aspirational targets set for 2025.

This Project will positively support the Councils' wider policy aspirations, including:

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- I. The Councils' pledges to Scotland's Climate Change Declaration and in particular their commitment to work with the Scottish and UK Governments to contribute to the delivery of Scotland's and the UK's Climate Change programmes including the reduction of greenhouse gas emissions. Included in this commitment is to achieve a significant reduction in greenhouse gas emissions from transportation, waste production and disposal.

II. Midlothian Council's

- Commitment to its Zero Waste Resolution;
- Economic objective of identifying new economic and commercial opportunities to provide local jobs;
- Environmental Objectives of re-using Brownfield land over the development of Greenfield, promoting the use of renewable energy sources, and conserving and improving Midlothian's environment;
- Sustainability value – "we want to ensure that everything that we do can be justified by its positive long-term social, economic and environmental benefit to Midlothian and so is not done merely for short-term gain".

III. City of Edinburgh Council's

- Commitment to playing a full and active part in helping achieve a Zero Waste Scotland;
- Sustainability Statement "we are committed to the effective and efficient use of all resources – environmental, social and economic, in a long-term framework, and aim to integrate this into all our services";
- Carbon Management Programme.

This Project will produce positive outcomes that will support the Councils in meeting their policy aspirations and targets on their journey towards Zero Waste.

3. Project Definition

3.1 Objectives

This Project has the following objectives agreed as part of the Project Brief:

- to procure a long-term waste treatment contract that will enhance household waste recycling levels and will recover value from residual municipal waste that has not otherwise been recovered or recycled;
- to ensure that the treatment of residual MSW, when combined with the source-segregated activities, is sufficient to enable the two Partner Councils to meet their targets for BMW landfill diversions

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- and contribute to their recycling obligations by supplementing source segregated recycling and composting; and
- to contribute towards the Councils' shared vision of a zero waste future.

The following criteria will be met:

- Complies with the Best Practicable Environmental Option (BPEO) in the Area Waste Plan (AWP) (as reviewed in 2007);
- Ensures compliance with the EU Landfill Directive and Landfill Allowance Scheme (LAS) targets;
- Contributes towards the current National Waste Plan (NWP) target of 55% recycling and composting by 2020 and subsequent new or revised targets;³
- Assists in compliance with the Scottish Government's policy announcement on 24 January 2008;
- Moves as much waste as far up the hierarchy as possible in accordance with the BPEO and NWP;
- Is clearly demonstrated to be affordable and deliverable;
- Attracts maximum competition in order to secure best value;
- Does not interfere with achieving best practicable levels of source-segregated recycling;
- Is sufficiently flexible to cope with future changes that can be reasonably anticipated;
- Minimises and transfers or shares risks with the contractor where appropriate; and
- Encourages innovation and optimises post-processing recycling and recovery.

3.2 Method of Approach

Details of the initial Project Approach approved by the Strategic Forum on 28th January 2009 are provided in *Supporting Document 3*.

The Councils recognise that in a joint project it is essential to agree in principle at an early date the approach to as many of the key areas of the Project as possible. This PID does not revisit the basis for the agreed approach but articulates it in further detail.

The Project Approach can be summarised as follows:

- Joint procurement utilising a staged approach in accordance with the Competitive Dialogue Procedure;
- A non prescriptive output approach to deliver a residual waste treatment solution in accordance with the waste hierarchy and proximity principle;
- Bidders to be encouraged to incorporate Commercial and Industrial Waste as part of the solution.

³ Note: Revised National Waste Plan will incorporate new Scottish Government Targets

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3.2.1 Joint Procurement Approach

Meeting the requirements of the EU Landfill Directive in a manner that accords with national policies and regulatory framework provides one of the biggest technical and financial challenges that Scottish Local Authorities are currently facing. Presented with this challenge City of Edinburgh and Midlothian Councils have recognised the need for urgent action and have agreed to combine together in a joint procurement.

The Councils have recognised the mutual benefits to be gained from the two Councils working together. Midlothian is able to bring a Project site to the procurement, essential for competition and best value, while City of Edinburgh brings the scale of waste requiring treatment that is necessary to attract a high level of bidder interest, increase competition and provide reasonable financial economies of scale.

The approach will be for the Councils to work in partnership through the Strategic Forum and Project Board to procure a waste management solution in accordance with European procurement rules.

The establishment of a Joint Working Agreement will demonstrate the fundamental commitment of the Councils to the successful delivery of this Project.

City of Edinburgh and Midlothian Councils agree to combine together in this Joint Procurement Project.

3.2.2 Staged Approach

The Project will consist of a number of stages as follows:

- **Stage 1- Initiation Stage:**
The Project Initiation Document is finalised;
- **Stage 2 - Appointment of Advisers Stage:**
Technical, Finance and Legal Advisers for the Project. Consultants and contractors to carry out Environmental Impact Assessment and Intrusive Ground Investigations at the Millerhill Site;
- **Stage 3 - Pre-procurement Stage:**
Documentation for procurement by Competitive Dialogue will be produced;
- **Stage 4 - OJEU Stage:**
A tender will be published in the OJEU and a short list of bidders agreed following submission of Pre-Qualification Questionnaires and Outline Solutions;

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- **Stage 5 - 1st Competitive Dialogue Period:**
Invitations to participate in dialogue will be issued to between 3 and 5 bidders and bids received will be evaluated through Competitive Dialogue before selection of 2 bidders for the next stage;
- **Stage 6 - 2nd Competitive Dialogue Period:**
Invitation to submit final bids, evaluation and appointment of preferred bidder;
- **Stage 7 - Preferred Bidder and Contract Award Stage:**
Clarification of Contract terms and price, followed by Contract award;
- **Post Project Review:**
Following completion of the Project, a post Project review shall be carried out to ensure that objectives have been met and the delivered products conform to the agreed descriptions;
- **Stage Reviews:**
There will be a review of the Business Case and Project Plan at the end of each Stage prior to Project Board Approval of Next Stage Plans.

This Project will adopt a clearly structured Staged Approach to Procurement

3.2.3 Procedural Approach

A competitive dialogue process will be used to engage with bidders and reach a contractual agreement with a preferred bidder.

As detailed at 2.4 and 3.2.4, the Councils recognise that this major Project involves a high degree of complexity and that the private sector is best placed to bring forward innovative solutions to meet the needs of the Councils.

The Competitive Dialogue process is required because there is a need to discuss the proposed contract details and outputs with the Tenderers which complies with the requirements of Regulation 18(1) of the Public Contract (Scotland) Regulations 2006. It is not seen that the Councils can be sufficiently prescriptive in terms of technical solutions to employ the Open or Restricted procedures and that the contract does not meet the requirements of Regulation 14 to allow the Negotiated procedure.

An outline of the approach to be taken to the Competitive Dialogue process is provided in *Supporting Document 4*.

The Project Contract will be procured using the Competitive Dialogue Procedure which is designed to negotiate complex public contracts.

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3.2.4 Non Prescriptive Approach

The Councils will not be prescriptive about waste processing technology types or plant capacities when issuing Tenders. This approach will allow the Project to benefit from maximum bidder innovation that should in turn deliver Best Value and value for money.

In respect of capacity, while the Councils will provide estimates of future waste arisings and recycling/composting performance, contractors will be asked to provide solutions to comply with an output specification. It is intended that the contractor will be permitted to accept limited quantities of Commercial & Industrial wastes which can be varied to compensate for fluctuations in MSW arisings. This flexibility would allow for future changes in the municipal waste stream, especially increased source segregated recycling, to be accommodated without penalty to the Councils. This approach has been tested with industry representatives to an extent during market sounding and while it is clear that some technologies and combinations of technologies can offer more flexibility in respect of capacity than others, there was no opposition to this approach in principle.

In respect of technology, bidders will be free to bring their own solutions to the process. It is considered that this approach is of even greater importance in Scotland if Councils are to challenge the waste industry to provide solutions that will fill the gap between actual source-segregated recycling levels and the aspirational targets of the Councils and Scottish Government. The only restriction to the capacity of any technology is the Scottish Government's policy that no more than a quarter of municipal waste should be treated by EfW by 2025.

It is considered by the Councils and industry representatives who took part in market sounding that the ultimate target of 5% landfill is unlikely to be met by a combination of source-segregated recycling/composting and MBT without an element of EfW. Due to the 25% cap on EfW, and the expectation that all residual waste must be treated to ensure maximum recycling and recovery of value, there is likely to be a need for a combination of residual treatment technologies.

The Councils are committed to moving as much waste as possible as far up the waste hierarchy as practicably possible, and minimising landfill, while ensuring that the agreed levels of recycling identified in the AWP, which balance practical limitations, cost and environmental impact, are not compromised by this Project.

For the avoidance of doubt, the Councils are fully prepared to consider any combination of MBT, EfW and Anaerobic Digestion. Provided the technology is proven this may include technologies such as mixed waste stabilisation, steam autoclave, gasification, incineration with energy recovery and refuse derived fuel production. In the case of energy from waste, any proposal must have the capability for high efficiency.

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This long-term Project involves a major commitment of human and financial resources by the Councils and will not be seen as an opportunity to trial new technologies that cannot be demonstrated as capable of treating mixed MSW and/or to work on scales that are as yet unproven.

There are a wide variety of MBT and EfW technologies that can form part of a bidder's proposals. There are also various options for on-Project Site and off-Project Site treatment activities, [REDACTED]

[REDACTED]⁴ [REDACTED]
[REDACTED]

Given all these factors, the Councils recognise that a prescriptive approach by the Councils would run an almost certain risk that a better value for money solution could be excluded. The Councils therefore wish to challenge the industry to consider all the above factors when they are devising solutions to bring forward for evaluation.

The Councils have not ruled out a temporary or interim solution and are likely to explore this opportunity separately from this Project following discussions with other potential Partner Councils. Again provided value for money, including environmental benefit, can be demonstrated, for what is likely to be an expensive option, this may result in a short term contract for treatment. However, it is hoped that the Scottish Government will continue to waive landfill fines ahead of a full solution to avoid a short term contract, if it is justified purely by avoiding fines.

If available, such a short-term contract would be for waste treatment at an existing plant or future merchant plant most probably outwith the Edinburgh and Midlothian Council areas. This might not accord with the proximity principle or Best Practicable Environmental Option, and is likely to incur significant additional transportation costs on top of any gate fee.

The Project shall, subject to Government policy constraints, adopt a non-prescriptive approach towards technology, sites and capacity.

3.2.5 Reference Case(s) Approach

The generic reference cases developed for this PID demonstrated that there is a robust deliverable residual waste treatment solution available that can meet the Councils' objectives.

However, the experience of the Councils is that focussing on a single reference case at this stage tends to send the wrong message to bidders, the public and Government. Accordingly it is stressed that the Councils have no preferred solution and are genuinely open to consider any proven deliverable technology that can meet their needs.

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The Councils have therefore agreed to base their initial business case as outlined at Chapter 5 on a range of technological solutions informed by gate prices/Unitary charges obtained from delivered projects in England.

The Project shall where possible during the initial stages avoid use of specific reference technologies.

3.2.6 Contract Structure Approach

The aim of the procurement strategy is to obtain a long-term residual waste treatment contract on the best possible terms, possibly a variation of a PPP on a Not for Profit Distribution (NPD) basis favoured by the Scottish Government. However, although the final procurement model is not yet finalised, the Project is committed to delivering some form of contract with a private sector partner. Any significant variation from the traditional approach to PPP in waste management projects will require careful handling, explanation and delivery to ensure there is no significant effect on market interest and value for money.

The Councils are keen to consider a new model that suits their needs where traditional allocation of risks in PPP projects is challenged. Early work has commenced to inform the potential contract structure as highlighted by *Supporting Document 5: Qualitative Assessment of Procurement Models* and close dialogue will continue with the Government and Scottish Futures Trust on the developing model.

The contract must have sufficient flexibility to assist with delivery of statutory recycling targets and guarantee landfill diversion targets when combined with whatever performance levels are achieved through the Councils' waste reduction, reuse and source-segregated kerbside recycling and composting activities.

Waste Management contracts of this scale typically use a 25-30 year contract period to maximise affordability by aligning the contract term with the useful economic life of the principal assets. In principle this Project will be progressed on the basis of a 25-30 year Contract.

This Project will, in principle, be developed on the basis of a smart, flexible 25-30 year Contract with the Private Sector. Traditional risk allocations will be challenged.

3.2.7 Best Practicable Environmental Option Approach

An objective of this Project is to ensure a contribution towards compliance with the Best Practicable Environmental Option in the Area Waste Plan, which follows the waste hierarchy in the National Waste Plan. However while recognising this the Councils will take a similar approach outlined in the EU Waste Framework Directive which places the best environmental outcome, when justified by full life cycle analysis, above the need to

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strictly adhere to the waste hierarchy. The services of the Scottish Environment Protection Agency shall be engaged to assist with life cycle analysis (LCA). SEPA has indicated its willingness to work closely with the Project Team in this area. LCA will in principle be included as an indicative tool available to assist in the evaluation of bidders proposals.

This Project will contribute towards compliance with the BPEO while adopting the best environmental outcome approach to the waste hierarchy as outlined in the EU Waste Framework Directive with SEPA assisting in LCA.

3.2.8 Site Issues and Planning Approach

The Millerhill site shall be offered to bidders to bring forward in their proposals. By providing the site, maximum potential competition on a level playing field will be obtained. The Project Team will engage consultants to carry out an Environmental Impact Assessment of the site and provide an Environmental Statement to support Planning Applications.

In line with the non-prescriptive approach to technologies the Councils will apply for Outline Planning Permission (or Planning Permission in Principle if after 3rd August 2009) to cover the most comprehensive range of technologies including MBT and EfW to establish a waste use on site. This will provide further comfort for bidders. The aim is to submit the application for Outline Permission before commencement of procurement and after site purchase or agreement to an extended Option to purchase the site. The appointed preferred bidder will be required to apply for detailed consents. During the next stage "Appointment of Advisers" an Ecology Study and Transportation Study will be carried out to support the EIA and the full EIA will commence after appointment of consultants through EU Procurement rules. Consideration will also be given to carrying out Intrusive Site Investigations to ascertain the full scale and costs of site remediation.⁵

Bidders will then be able to bring forward any proposals for the Millerhill site which fit within the wide scope of the Outline Permission. The detailed Planning Application shall be submitted by the preferred bidder shortly after appointment.

The Communication Plan to be developed will be closely linked to the sites and planning strategy.

The Project Approach to planning shall involve the Councils applying for Outline Planning Permission prior to commencement of Procurement and the Preferred Bidder submitting detailed application(s).

3.2.9 Proximity Principle Approach

⁵ The data book *Supporting Document 9* contains estimated costs.

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The Councils will apply the proximity principle as outlined in the Area Waste Plan. The Area Waste Plan states that “*consideration should be given to the proximity principle, transportation distances and the carbon footprint.*”

Where products of the primary treatment processes need to travel substantial distances for use/recycling, the Councils will have a more favourable approach to bids which include transfer by rail or water.

This approach will lead to maximum environmental, social and business benefits for the local area and is also in line with European Union policy.

The Proximity Principle shall be a key consideration.

3.2.10 Evaluation Approach

For assessment of contractors’ tenders, the Project will adopt the standard approach to evaluation which is appearing in the UK.

The following four key criteria will be assessed at all three stages of Invitation to Submit Outline Solutions (ISOS), Invitation to Submit Detailed Solutions (ISDS)⁶ and Invitation to Submit Final Tenders (ISFT).

- Environmental and Technical;
- Financial and Commercial;
- Legal;
- Integrity.

The evaluation criteria throughout the process will be constant however it is permitted to have a range of values which can vary between the stages to reflect the balance between Environmental and Technical & Financial and Commercial. Elected Members of the Councils will play a key role in setting the evaluation weightings.

This will be given further consideration during the next stage and when advisers are appointed.

An initial list of detailed criteria which may be included under the four key headings has been developed and will, following a Strategic Forum workshop with Elected Members in the Next Stage, be refined prior to final agreement on criteria and weightings when advisers are appointed.

The Project shall adopt emerging standard practice with regard to evaluation criteria with weightings informed by Local Elected Members.

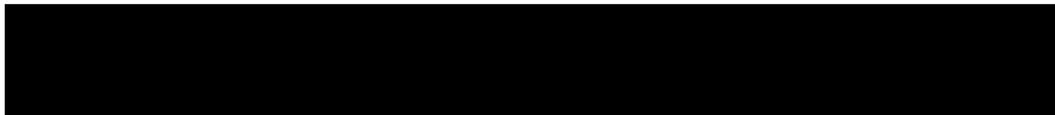
3.2.11 Payment Mechanism Approach

It is agreed in principle by the Councils that during the operational stage

⁶ The refined ISDS is treated as part of the overall ISDS Stage

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payments will be made to the contractor based on the tonnage input by each Council. It is recognised that there may be exceptions where additional services are required by an individual Council or a Council is in Contract default.



In principle any arrangement made with partner Councils outwith the Contract will be at arms length and on a commercial basis.

Substantial guidance has been developed by DEFRA regarding the structure of Payment Mechanisms and agreed approaches have been developed regarding income sharing and incentives.

The Project shall adopt standard practice in Payment Mechanisms as provided in DEFRA Guidance.

3.2.12 Third Party Waste Approach

Best Value will be achieved by permitting bidders to take a view, within reason, on the potential for attracting third party MSW⁷, particularly from within Lothian and Borders and including commercial and industrial waste input which can be increased or decreased to balance out varying levels of achievable MSW source segregation and waste reduction performance.

This will also assist in delivering the wider aspirations of the AWP with respect to non-MSW and contribute further to the Climate Change Agenda. This approach also fits well with the Scottish Government's developing National Waste Plan where there is expected to be a greater recognition of the need to provide targets and infrastructure for treatment of Commercial and Industrial wastes.

The Project shall be based on encouraging bidders to take a view on the availability of third party MSW and Commercial and Industrial Waste.

3.2.13 Key Stakeholder Approach

The Councils will continue to work in close partnership with the Scottish Government, Scottish Futures Trust and SEPA in particular to ensure the appropriate Central Government support in terms of policy, targets and funding without which it would not be possible to realise the waste management ambitions of Scotland.

The Scottish Government, possibly through the Scottish Futures Trust, shall be asked to review documentation and progress where appropriate.

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The approach to other key stakeholders, including during the planning process will be detailed in the external Communications Plan. The Communication Strategy has been agreed. (*Supporting Document 11*)

Local public awareness is essential throughout the life of the Project and beyond with initial awareness focussed during the preparation and finalisation of planning applications.

The Project shall be progressed in close liaison with the Scottish Government, Scottish Futures Trust and SEPA.

3.2.14 Innovation Approach

In order to provide the best possible solution given the issues noted at 3.2.4, innovation in all aspects of bids will be required and encouraged where this can be shown to add value to the Project.

While innovation is encouraged, the Councils will place a high weighting on contractors demonstrating that their proposed technologies are proven at scale, deliverable on the scale required by this Project and will meet targets.

Innovation by bidders will be encouraged provided technologies are proven on mixed MSW at scale.

3.2.15 Existing Disposal Contract Approach



3.2.16 Transparency Approach

It is the Project's intention to continue to be as open and transparent at all stages of procurement where possible within the limits required by the competitive process and other commercially sensitive matters. It is essential however that the detail of any future modelling and reference cases are not confused with the Project's non prescriptive procurement strategy. The Project's Communication Plan shall take full account of this.

The Project shall adopt an open transparent approach where possible.

3.2.17 Use of Advisers Approach

The apportionment of work activity between the Project Team and its appointed external Legal, Technical and Financial Advisers shall take account of who is best placed to carry out works, minimising cost where possible without compromising the Project.

The Project will be assisted by external advisers only where this provides value for money.

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3.2.18 Service Integration Approach

The waste treatment facilities that will be procured by this Project will form part of an integrated waste management system and must complement and be compatible with the current and future waste minimisation, reuse and recycling activities of the Partner Councils.

The Councils will keep their waste collection systems under review and will endeavour to increase the levels of waste minimisation, reuse and recycling over time. This may involve future changes to collection systems and the types and volumes of waste separately collected.

Therefore the Councils are likely to seek to procure a flexible contract that will best accommodate changing types and volumes of residual waste over time and will not interfere with their waste minimisation, reuse and source segregated recycling activities.

3.3 Scope

The initial scope of the Project was agreed by the Strategic Forum on 28th January 2009. (*Supporting document 2: Project Brief*).

As part of wider Council aspirations towards a Zero Waste future, the successful contractor will be required to incorporate an educational waste awareness centre at the main Project site.

The successful Contractor's responsibilities will in principle be as follows:

- to receive residual MSW from the Councils at the gate of the Millerhill site;
- to design, build and operate facilities to treat all residual MSW and any agreed level of Commercial and Industrial Waste received from the Councils and will arrange markets for metals, and other products such as ash or bio-waste and energy recovered from the process as far as possible;
- to arrange an outlet for hazardous waste (including any fly ash) from the process throughout the life of the contract and arrange landfill disposal for any residues from the process that cannot be recycled. This landfilling may be arranged directly with the two Councils to utilise committed Landfill Contracts where possible;
- to arrange any transport of waste from any designated drop off point to the treatment facilities, and of products and residues from the treatment facilities to markets and to landfill as necessary; and
- to ensure that the treatment facilities have sufficient capacity to treat all agreed levels of residual MSW arisings throughout the life of the contract.

Note: further opportunities for joint working beyond the scope of the Project are discussed at 3.5.

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The Project Scope shall be to procure the treatment and final disposal primarily, but not exclusively, of all the residual waste collected by or on behalf of the Councils.

3.4 Deliverables/Outcomes

The key Project deliverables that will be generated throughout the Project as follows:

- **Stage 1 - Initiation Stage:**
 - Project Initiation Document

- **Stage 2 - Appointment of Advisers Stage:**
 - Technical, Finance and Legal Project Advisers contracted;
 - Consultants engaged for Environmental Impact Assessment and Environmental Statement;
 - Contractors employed for the Intrusive Ground Investigations at the Millerhill Site;
 - Consultants engaged for Transport Impact Assessment for the Millerhill development;
 - Any required submission to the Scottish Government to release funding from the Zero Waste Fund;
 - Strategic Forum: Project Planning Workshop;
 - Strategic Forum Awareness Seminar.

- **Stage 3 - Pre-procurement Stage:**
 - Draft OJEU Notice;
 - Draft Output Specification;
 - Draft Performance Measurement Framework;
 - Draft Payment Mechanism;
 - Contract Outline;
 - Evaluation Framework;
 - Inter-Authority Agreement;
 - Information Memorandum;
 - Acquisition or extended Option to Purchase the Millerhill site;
 - Robust and auditable evaluation methodologies;
 - A full suite of Competitive Dialogue procurement documents;
 - A full suite of draft contractual documents for the delivery of the services, including draft contract, specifications, schedules, payment mechanism and performance mechanism adapted for two main technological solutions.

- **Stage 4 - OJEU Stage:**
 - PQQ Evaluation Procedure;
 - CD & Tender Evaluation Procedure;
 - Outline Contract Documents;
 - OJEU Notice launched;
 - PQQ/MOI issued;

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- Short list of bidders agreed.
- **Stage 5 - 1st Competitive Dialogue Period:**
 - Invitations to Participate in Dialogue issued;
 - Bids received;
 - Bid evaluation report;
 - Selection of 2 bidders for the next stage.
- **Stage 6 - 2nd Competitive Dialogue Period:**
 - ITSFT issued;
 - Bids received;
 - Evaluation report on bids;
 - Appointment of preferred bidder;
 - Initial Risk Allocation.
- **Stage 7 - Preferred Bidder and Contract Award Stage:**
 - Final contract award;
 - Final Payment Mechanism;
 - Final Technical Solution Specification;
 - Final Risk Allocation.

The Project's final output shall be a smart, flexible contract with a Private Sector Partner which delivers the Best Value solution that accords with the Project Objectives, primarily meeting landfill diversion targets.

3.5 Exclusions

The following are areas which will be retained by the Councils (managed directly or through separate contract) and are therefore specifically excluded from the scope of the Project:

- Waste collection;
- Operation of Recycling Sites, Recycling Points and existing Transfer Stations;
- Handling, sorting and delivery to markets of source-segregated dry recyclables;
- Delivery to composting facilities and composting of source-segregated bio-waste;
- Disposal to landfill of residues/rejects from any of the above activities or sites;
- Waste minimisation activities;
- Other waste procurement projects being undertaken by the Authorities;
- Waste Strategy development;
- Waste audits;
- Contingency arrangements – in the event of the procurement not being completed;
- Other legal, communications, financial and procurement Project elements that are the responsibility of the individual Councils.

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Note: although these areas are specifically excluded from the scope of the Project, during the Project opportunities may be identified for further joint working. However any development of these opportunities would be taken forward as separate projects, but possibly under the same Corporate Management structure. These potential additional Projects may be linked with the development of the Zero Waste Parc at Millerhill.

While the Councils are excluding an Interim Solution from the scope of this Project, if necessary, joint short-term contingency arrangements will be considered with other Councils throughout Lothian and Borders.

3.6 Constraints

The following Constraints have been identified:

- 
- The Project Team staff resource agreed by the Project Board prior to commencement of each Stage;
- Scope of the Project-only tasks within scope can be considered;
- Project dependencies including Councils operational waste collection services provided by or on behalf of the Councils;
- Affordability of any proposed solution to the Partner Councils;
- European Union Procurement Rules;
- Current Legislation and subsequent changes to Legislation during the Project;
- Existing waste management arrangements and agreements;
- Planning and other conditions applied by regulatory bodies;
- The final solution must demonstrate Best Value and Value for Money.

3.7 Interfaces

Key interfaces include:

- Scottish Government;
- Scottish Futures Trust;
- SEPA;
- Partner Councils at various levels;
- Other Lothian and Borders Councils and COSLA.

The Zero Waste Project will form part of an integrated approach to sustainable waste management in the Lothian and Borders Waste Strategy Area, inextricably linked to the waste reduction and recycling activities of the Partner Councils and the Scottish Government's vision of moving towards a Zero Waste Society.

The Communication Strategy for the Project incorporates liaison and communication arrangements with the Groups above and also the public and other interested parties.

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4. Assumptions

This Project has been based on the following key assumptions:

4.1 Scottish Government Policy

- That the Scottish Government will continue to focus on the Councils' outcomes through the Single Outcome Agreement process, and not be prescriptive about delivery methods;
- That its Recycling Delivery Team and the Scottish Futures Trust will be available for general advice;
- That the headline targets and restrictions in the Scottish Government policy announcement in January 2008 will remain unchanged during the procurement stage;
- That the Scottish Government wish to see early delivery of treatment infrastructure and have no intention to dictate procurement models or step in should particular routes be chosen by Councils;
- That £34million will be available to Scottish Councils through the Zero Waste Fund in 2010/11 and will be mainstreamed in the Revenue Support Grant from that year onward;
- That the restriction on Energy from Waste (including Anaerobic Digestion⁸) of 25%MSW is an input figure and not an output;
- That the products of mixed waste treatments including MBT and EfW will contribute to the 70% aspirational target by 2025;
- That Scotland's new National Waste Plan will incorporate targets to reduce the amount of commercial and industrial waste to landfill;
- That Scotland's new National Waste plan will encourage treatment of residual commercial and industrial waste through the use of combined facilities with the Public Sector; and
- That the Scottish Government will consider additional funding to support waste management infrastructure projects as part of the next Spending Review.

4.2 Waste Growth and Waste Reduction

That, in line with Government Policy, as an initial working assumption, waste growth per household in the area of the Councils will cease by 2010.

During the next stage of the Project assumptions will be tested and evidenced further prior to procurement, which may include waste arisings continuing to reduce per household for a period and then level out. Predicted housing growth will then be factored in to modelling of waste arisings. Also in the next Stage of the Project, prior to procurement, verified 2008/09 waste data will be obtained and after finalising assumptions on future waste arisings, further modelling will be carried out to inform potential treatment capacities.

⁸ AD of mixed waste covered by the restriction- Source segregated treatment of food waste not included in restriction.

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4.3 Governance, assurance and support

- Governance and assurance arrangements will continue to be based on first class project management;
- This PID including Joint Working arrangements will be approved;
- Timely decisions will be made by effective reference to the Project Executive where necessary.
- Support on Project Assurance may materialise from the activities of the Scottish Futures Trust during 2009; and
- Officers of the Councils will recognise and support project development in accordance with this PID and the Project Plan.

4.4 Procurement

- There will be no constraints placed on the procurement process by Government.

4.5 Land and Planning

- The Millerhill site remains available;
- The partner Councils are prepared to consider purchasing the site by December 2009 and have budget contingencies in place;
- The ES and EIA do not identify unexpected constraints;
- The Intrusive Site Investigations do not identify insurmountable difficulties;
- A satisfactory access route into the site is agreed and approved;
- Outline Planning Permission will be obtained.

4.6 Resources

- Each Council will commit the financial resources necessary to complete the Project;
- The team resources committed to the Project by Councils will be appropriate and made available throughout the whole Project life.

5. Business Case

As discussed above it is recognised that “do nothing” is not a viable option, due to escalating landfill tax costs and the likelihood of EU infraction proceedings against the UK if BMW landfill targets are exceeded.

Although penalties from the Landfill Allowance Scheme are currently suspended in Scotland, the UK as a whole is still required to comply with the Landfill Directive. For the purposes of modelling, fines of £150 per tonne have been assumed.

The affordability assessment assumes that the Zero Waste Fund will be available as a funding source through the Revenue Support Grant from 2010/11⁹ to assist with Landfill Diversion.

⁹ Assumed as a proportional split of £34m from 2010/11 based on Waste Disposal Grant Aided Expenditure

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The ability of Councils and the Scottish Government to fund the Project and front end recycling is a central issue. It is recognised that lobbying of Government and COSLA will be essential to include residual waste treatment funding in the next Spending Review.

5.1 Costs

Modelling Scenarios – As part of the production of the Business Case, a series of models were produced to broadly compare a range of technologies, varying levels of kerbside performance and further increases in landfill tax. This analysis has been used to calculate an affordability envelope at 2014/15 costs expressed on a 2008/09 basis for comparison purposes.

The modelling assumes two further increments in Landfill Tax ultimately taking tax to £72 per tonne landfilled. This is based on comparable costs and the direction of travel of landfill tax in Europe. Sensitivities on landfill tax assumptions have also been carried out.

For assessment of affordability it is assumed that the full allocation of Zero Waste Funding is utilised to support this Project.

Two main scenarios have been modelled:

- Solution 1: based on treating 25% of the total MSW costed on an EfW plant sized at 150,000 tonnes per annum throughput. This plant includes initial capacity of around 50,000 tonnes for C&I or third party MSW;
- Solution 2: based on treating 50% of the MSW costed on a MBT plant sized at 200,000 per annum. This plant includes 25,000 tonnes of capacity for C&I or third party MSW based on 2014/15 waste volumes. A gate price is assumed for Refuse Derived Fuel produced (RdF).

There are a large number of potential models that could have been constructed but the two scenarios modelled are considered to represent the wide range of cost outcomes.

This analysis has suggested total first and last year costs as follows:

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Table 2

CEC & MC Combined - Full Cost of Residual Treatment/Landfill First Year - Annual Cost 2014/15 (£m)								
	Landfill	Treatment	LATs Fine	Gross Cost	Contract Mgt	ZWF	Viridor Penalty	Net Cost
Do Nothing	■	■	■	■	■	■	■	■
EfW (Sol 1)	■	■	■	■	■	■	■	■
MBT (Sol 2)	■	■	■	■	■	■	■	■

Table 3

CEC & MC Combined - Full Cost of Residual Treatment/Landfill First Year - Annual Cost 2014/15 (£ per tonne)								
	Landfill	Treatment	LATs Fine (per relevant tonne)	Av Gross Cost per tonne	Contract Mgt (per tonne treated)	ZWF (per tonne treated)	■	Net av Cost per tonne
Do Nothing	■	■	■	■	■	■	■	■
EfW (Sol 1)	■	■	■	■	■	■	■	■
MBT (Sol 2)	■	■	■	■	■	■	■	■

Table 4

CEC & MC Combined - Full Cost of Residual Treatment/Landfill Last Year - Annual Cost 2044/45 (£m)								
	Landfill	Treatment	LATs Fine	Gross Cost	Contract Mgt	ZWF	■	Net Cost
Do Nothing	■	■	■	■	■	■	■	■
EfW (Sol 1)	■	■	■	■	■	■	■	■
MBT (Sol 2)	■	■	■	■	■	■	■	■

Table 5

CEC & MC Combined - Full Cost of Residual Treatment/Landfill Last Year - Annual Cost 2044/455 (£ per tonne)								
	Landfill	Treatment	LATs Fine (per relevant tonne)	Av Gross Cost per tonne	Contract Mgt (per tonne treated)	ZWF (per tonne treated)	■	Net av Cost per tonne
Do Nothing	■	■	■	■	■	■	■	■
EfW (Sol 1)	■	■	■	■	■	■	■	■
MBT (Sol 2)	■	■	■	■	■	■	■	■

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Following from the analysis of costs per tonne an affordability window of between [REDACTED] per tonne has been agreed in principle as a working assumption to be reviewed prior to procurement. [REDACTED]

Assumptions

- Costs expressed at 08/09 levels throughout
- Costs relate to landfilling of residual MSW and treatment costs where appropriate
- Solution 2 assumes a gate price for RdF
- Recycling rates assumed to increase to 39.3% by 10/11 for MC and to 43.6% by 11/12 for CEC
- Waste growth per household is assumed to cease
- Planned housing growth factored in
- Existing gate fees are [REDACTED] per tonne for CEC (July 2008) and [REDACTED] per tonne for MC
- Landfill Tax increases by £8 per tonne per annum until 14/15 then flatlines at £72 per tonne
- LATS allowances are based on published national targets for 2012/13 and 2019/20. Allowances are assumed to be £150 per tonne on waste landfilled in excess of LATs allowances
- ZWF has been included in full as a funding source when any landfill diversion is achieved. This favours the partial solution as it is assumed to receive full funding which may not occur in practice.

One off costs have been included which are best estimates of land acquisition land remediation and access costs. It is anticipated that ZWF funds can be used to meet these costs in the period pre-service commencement.

Table 6

One off Project Costs				
Year	2009/10	2011/12	2012/13	2013/14
Site Acquisition	1,990,954			
Site remediation			[REDACTED]	
Access Roads			[REDACTED]	
Total	[REDACTED]		[REDACTED]	
Total ZWF	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Business Case assumptions are contained in *Supporting Document 9: Data Book*

5.2 Benefits

Apart from meeting the objectives of the Councils, successful delivery of the Project may produce financial benefits from Profit Share should this be greater than base assumptions. However, this potential has been excluded from the affordability assessment.

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EfW – electricity or CHP income

Where EfW forms part of the local solution, the Contractor and Councils will naturally be incentivised to maximise EfW efficiencies and therefore income from electricity sales to the Grid and heat where customers are available. Midlothian and City of Edinburgh Councils will encourage the development of a heat network in the area should the solution include EfW.

MBT – off-take potential

The markets for products from MBT are much more unstable or immature. However where Refuse Derived Fuel (RDF) is produced there may be a future “upside” that will have a positive contribution in terms of affordability. In the short to medium term however it is assumed that there will be a gate fee to send RDF for use.

As outlined at Chapter 2.5, there are a number of wider policy benefits for both Councils, and in particular in relation to Climate Change and Carbon Management.

5.3 Risks

The approach to key risks is provided at Chapter 10.2.

5.4 Value for Money Position

In order to assess the value for money considerations of different procurement approaches, Ernst & Young were commissioned to undertake a specific work package to assist the Councils review 3 key approaches.

The Councils, through an initial risk assessment workshop, produced an initial table indicating where their preference was for risk to be allocated (ie the Councils, the contractor or shared). For simplicity this workshop assumed that a PFI structure represented the maximum risk transfer that could be achieved. The purpose of the workshop was to assess whether that transfer represented the target transfer.

Ernst & Young, through a procurement workshop involving Council Officers, led the evaluation of existing costs and risk allocation of a traditional PFI structure, NPD or Prudential Borrowing model against the target risk allocation models.

The structures should not be viewed as discrete alternatives and a solution incorporating elements of all approaches is likely to be preferable. The final solution will be dependent on the risk appetite of the Councils during procurement and the financial climate at that time. In summary, Ernst & Young noted that a PFI structure would be most compatible with the Councils initial desired risk allocation. Apart from the current political issues surrounding PFI/PPP in Scotland, the prevailing economic conditions would make PFI/PPP comparatively expensive at present. NPD would also be more expensive in the current climate. While NPD is a form of PPP, there are no equity shareholders and returns to lenders are limited. Public funding

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(prudential borrowing) would involve a greater share of risk being retained by the Councils with the key benefit being a lower cost of capital.

The summary review by Ernst & Young is attached below and the full report is included in *Supporting Document 5*.

E&Y – Summary of Conclusions

Three options have been assessed:

- Option 1 – PFI (Private Finance Initiative)
- Option 2 – NPD (Not for Profit Distribution)
- Option 3 – Public finance structure (with Option 3A using public funding from the outset and Option 3B using private funding during construction).

The options were assessed on the basis of:

- Fit with a baseline risk allocation based on a PFI approach;
- Price differential;
- Deliverability in Council terms; and
- Deliverability from a market viewpoint.

Option 1 – PFI/PPP

Based on the discussions held at the 5 March workshop, as summarised in the report, PFI/PPP continues to offer the best fit to the target risk allocation. However, the prevailing issues in the funding market at present mean that PFI/PPP is a comparatively expensive option for the time being (driven primarily by increases in funder margins), although this situation may ease. Further, the use of cost mitigation factors described in the paper could potentially ease this issue.

Option 2 – NPD

NPD offers the same benefits and similar risk allocation to PFI/PPP but is untested in waste. As NPD is a concept rather than a model, it is suggested that an approach based on PFI/PPP but incorporating key NPD principles could be developed, incorporating enhanced stakeholder involvement in the SPV and a carefully developed gain share model that allows private returns to be quantified transparently and controlled. This would have an impact of the price of a NPD option, since the work involved in developing such a model would have an adverse effect on procurement costs.

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Option 3A – Public Finance Structure

Based on the outcome of the 5 March workshop, it would appear that Option 3A may be discounted by the Councils, due to risk and management exposure of the Councils during the construction period, in particular.

Option 3B offers a viable option for the Councils, dependent on the Councils' ability to borrow sufficient funds and confirmation of the vires of certain sub-options within this model. There is likely to be a lower cost of finance compared to PFI/PPP and NPD, but the lack of precedent and established risk profile means that the attractiveness of Option 3B depends upon the project specific risks that are negotiated with the private sector. In addition the Councils are presented with additional risks and responsibilities in terms of; (i) due diligence responsibilities; (ii) monitoring obligations; and (iii) risks to debt in the event of termination through contractor default. Whilst these may be mitigated through additional contractual protections, no waste project utilising prudential borrowing has reached contract close (as at March 2009) and as such there is limited precedent as to how these protections may work in practice or the price the private sector will attach to them.

Further, it would be possible to introduce some NPD concepts into Option 3B such as enhanced stakeholder involvement and control measures on investor return where equity and sub-debt continue to be in place into the operational period.

The table overleaf sets out a summary of key findings against each of the options discussed.

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Table 7	Risk	Price	Council Deliverability	Market Deliverability
Option 1 – PFI	Forms baseline allocation which is well understood and accepted in the market.	Forms baseline for VFM, Margins are high at present due to market issues, but a range of mitigating measures are potentially available (capital contribution, use of EIB funds, HMT Infrastructure Fund or public loan tranche) to reduce cost.	Well established route can be followed using standard processes, with range of key risks transferred. However, PFI not favoured by the Scottish Government. Procurement costs can be high due to competitive dialogue, although this would apply to all options.	Project highly likely to attract market interest as a PFI project and is of a size that would not be likely to present problems in obtaining funding.
Option 2 – NPD	NPD approach of capping investor returns is dependent on ability of private sector to control downside risk, which is more challenging in waste and may lead to resistance in following a PFI risk allocation without premium pricing. Capping of returns in a project where third party revenues exist may be difficult to achieve under a normal NPD model.	No significant differential but noting possibility of higher procurement cost and unquantifiable risk pricing. The approach to control of return on third party income may also be a factor that will influence price.	Favoured by Scottish Government but may have higher procurement costs. Approach to treatment of surpluses and methodology by which returns are capped or controlled require further consideration.	NPD model will be unfamiliar to the waste market and may influence market interest.
Option 3A Public Funding from outset	A range of risks are allocated to the public sector that would not apply under PFI – diligence, monitoring, termination and interface – that move away from the baseline model.	Less costly due to lower cost of capital, with pricing affected by cost of equity, if present, or of security measures if absent.	Will depend on ability to secure funding and vires of applying such funding for this purpose. Places a range of additional obligations on Councils that would not apply under other options.	Untested in the market.
Option 3B Public funding after construction	Allows transfer of significant diligence and monitoring risk during construction, but Councils bear more risk in operations phase than under PFI/NPD options.	More costly than 3A due to cost of capital in construction, but likely to remain a lower cost options than options 1 or 2.	Similar to above, although issues around additional obligations of Council are alleviated in this option.	We are aware of 3 projects in the UK waste market partially following this route, though to date no project has reached financial close.

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This analysis concludes the initial qualitative assessment. This will be finalised during the pre-procurement period. An assessment will be made at that time as to whether carrying out a full quantitative assessment adds value to the Project.

5.5 Allocation of Costs

The allocation of costs for various stages, as shown below, and activities will be agreed in May 2009.

Table 8

Allocation of Costs Table		
Cost	Allocation basis	Agreed
PID Costs	██████████	██████████
Pre-procurement costs	██████████	██████████
Desktop site investigation	██████████	██████████
Procurement costs	██████████	██████████
Site purchase	██████████	██████████
Intrusive site investigations	██████████	██████████
Site remediation works	██████████	██████████
Access roads	██████████	██████████
Operating costs	██████████	██████████
Recyclate and electricity income	██████████	██████████
Third party Income	██████████	██████████

6. Project Organisation and Structure

Details of the Project Organisation and Structure are provided in *Supporting Document 6: Project Management Arrangements*.

7. Project Quality and Assurance

The Project Quality Plan is provided as *Supporting Document 10*.

8. Communication Strategy and Plan

8.1 External Communications

The Project will conform to an external Communication Plan to be developed and finalised by the Project Team following agreement of this PID. A secondee is to be appointed for Public Relations support during the next stage. This Plan will outline the interested parties, and how and when communication will occur. In the meantime a Communication Strategy has been produced to support current activities. (*Supporting Document 11*)

The Councils and the Project Team recognise the importance of maintaining a strong liaison with the Scottish Government, the Scottish Futures Trust and SEPA throughout the procurement phase.

The overall aims of the Communication Strategy are to be clear and open

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about the procurement of new waste management facilities and services and to manage communication in the public domain positively and effectively.

In terms of the community, channels must remain open, they must have sufficient information to understand the procurement process and are kept informed as to how they can become involved in the process.

With press and media, balanced and accurate coverage will be encouraged where possible.

8.2 Internal Communications

Details of Internal Communications are provided in *Supporting Document 6: Project Management Arrangements*.

9. Initial Project Plan

The Project Plan is a dynamic element of this PID, developing to meet changing needs and external influences.

The Project Plan summarised below is an outline plan and changes will be reviewed by the Project Board as part of stage end assessments.

9.1 Project Timetable

The following key milestones have been identified.

Table 9

Milestone	Timeline
Appointment of Advisers	August 2009
Launch of Outline Planning Application	February 2010
OJEU and pre qualification	February 2010
Invitation to Participate in Dialogue (3-5 bidders)	June 2010
Invitation to Continue Dialogue (2 bidders)	April 2011
Appointment of Preferred Bidder	January 2012
Award of Contract (subject to Planning)	February 2012

The procurement stages may vary in length but a 2 year period is the target. *Supporting Document 4* provides fuller information on the approach being taken to the Competitive Dialogue Procedure.

More detailed plans are provided separately at the end of each Stage.

As part of the Inception Reporting activity planned for the Pre-procurement Stages the project plan will be reviewed with the assistance of the Project's Advisers.

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9.2 Staff requirements

The CPT staffing requirements will be reviewed at the end of each stage in preparation for the next stage. *Supporting Document 6* provides the likely full complement of Officers for the Procurement stages of the Project and a gradual build up of staff resources will be phased in to match work activity in pre-procurements stages.

9.3 Budget requirements

Waste projects completed in England through Competitive Dialogue have incurred procurement costs of between £3-5m with the Competitive Dialogue stage taking a minimum of two years.

A high level budget has been built up using data from the previous Lothian and Borders Waste Project which is in line with the experience of completed projects. The budget will be reviewed in detail following the appointment of advisers and at each Stage boundary.

High level costs identified for each stage are

Table 10

	Stages				Total £'000
	Initiation £'000	Appointment of Advisers £'000	Pre- Procurement £'000	Procurement £'000	
Total	████	████	████	████	████
Contingency	████	████	████	████	████
Total inc contingency	████	████	████	████	3800

It is recognised that there is now a substantial body of experience in delivering waste projects and much of the documentation is easily available. However, it should be noted that the requirement to be non prescriptive may require more complex output specifications and payment mechanisms to be drafted and will extend the length of the Competitive Dialogue stage. Further, the use of an NPD funding structure would also increase costs.

The Project Team are actively reviewing external consultancy costs to consider opportunities to reduce reliance on external advisers. However it should be recognised that there will be a need for significant external adviser support throughout the life of the Project, in particular to deal with complex commercial issues. Each individual stage will be costed for approval by the Project Board when an assessment of the split in activity between the Project Team and advisers can be clearly made.

There is an expectation that once key decisions are made in principle there will not be unnecessary reviews or variations. The close working and early decision making of the Project Board will be key.

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9.4 Tolerances

In general tolerances will be set for each Stage of the Project.

The budget tolerance on this project will be +15% on each stage unless agreed otherwise. This is included in the development budget at paragraph 9.3.

It is recognised that Stage Plans may be exceeded in terms of time. However a decision point will be identified at the end of each Stage where any time delays will be considered. Exception Reports will be produced to deal with any substantial Project delays as they are identified.

10. Project Controls

Project Controls, including Change Control and the Exception process, are detailed in *Supporting Document 6: Project Management Arrangements*.

10.1 Risk Management

The Councils fully appreciate the importance of identifying and managing the key risks within the Project. The Councils are adopting an output based specification to allow bidders to develop innovative approaches and solutions that deliver value for money while reducing the complexity and risk for the public sector by freeing it of the need to plan the long-term detailed input requirement to deliver the service.

A Project Risk Log has been developed to encompass all risks that could be foreseen during the development phase of the Project. The Project Team will also produce a high-level Risk Report which will be updated before every Project Board meeting and appended to End Stage and Highlight Reports.

Risk Management Guidelines (*Supporting Document 7*) has been approved for this Project. During the development and procurement stages, risk will be managed in accordance with these guidelines. The detailed process for managing and reporting of risks is provided in *Supporting Document 8*.

10.2 Approach to Key Risks

It has been calculated that any delay in service provision will cost the two Councils £0.4 million per month in fines.

During procurement, the Councils intend to follow the basic principles in that contract risks should be transferred to the party best placed to internalise them. In practice this will usually be the Contractor who will in general expect to be compensated for the extent of risk borne. The Councils are however keen to ensure that they are not exposed to payments for risks that are over estimated or do not exist. On this basis traditional risk allocation will continue to be challenged where appropriate.

Table 11

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Risk	Risk Allocation			Comments
	Public Sector	Private Sector	Shared	
Availability of Sites	√			Councils intend to offer up Millerhill site. Contractor shall take the risk should they bring their own site.
Planning			√	Outline Planning Permission shall be obtained by the Councils. The full detailed Planning application will be submitted by the contractor shortly after the Preferred Bidder stage. Most of the risk will remain with the Councils
Other Consents		√		
Residual Waste Quantity			√	Poor VfM to try transfer demand risk but integration with C&I wastes will help.
Residual Waste Quality			√	Quality specification will be wide enough to allow Councils to vary their collective regime in accordance with good industry practice. However this may restrict some technologies.
Performance Risk		√		
Energy Recovery		√		Where EfW is part of a proposal, bidders will be required to bid a level of revenue from energy sales to offset the unitary charge. Councils will share in any up side over the figures bid.
Landfill		√		The contractor shall be responsible for landfilling of any output from his process
Design		√		
On-site Construction		√		
Construction of Access Roads	√			In principle this activity is likely to be carried out by the Councils
Technology and Obsolescence Risk		√		
Operation & Maintenance		√		
Mid-life Capex		√		Area for potential sharing?
Handback Condition		√		Facilities will be required to be handed back to the Councils to a pre-agreed standard.
Residual Value		√		
Financing			√	Councils prepared to consider showing financial risk after construction stage
3 rd Party Revenues			√	The public sector will share in the profit from all 3 rd party revenues. Likely to be reflected in the gate price/UC.
Change in Law General		√		
Change in Law Specific	√			

The above table will be reviewed again during the Inception Period of the Pre-procurement Stage when advisers have been appointed.

The approach of the Councils to the main key risk areas is discussed in general below.

10.2.1 Market Risk

Ever-increasing numbers of large-scale waste management Projects are coming to market in the UK and a significant number of companies and consortia, from local to international, are interested in bidding for these contracts. However, the bidding process can be protracted and very

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costly in staff time and resources without any guarantee of success, so potential bidders will carefully evaluate and compare Projects before deciding which to target.

Thus, from the outset, it has been recognised that the most important factor to the success of this Project will be its ability to attract sufficient interest from as large a number of competing technology suppliers or consortia as possible to obtain the Best Value solution. From early market soundings it became clear that potential bidders look for attractive, well-structured and clearly defined Projects that allow a high degree of flexibility.

The Councils will provide a Project that will attract maximum bidder interest by addressing the key messages from the market sounding in the following ways:

- Adopting an output specification that is neither technology-specific nor capacity specific;
- Offering up a Project site; and
- Offering a single contract with a single body.

A face-to-face market-sounding exercise has been held in the form of individual interviews with a selection of potential bidders representing a range of technologies and company resources. All interested contractors, including those interviewed, are given regular updates on the Project to maintain their interest.

There is however currently uncertainty in the market about Scottish Government Policy. It is intended to work with the Government and to seek the appropriate clarity in terms of guidance on definitions etc.

The Project will continue to engage with the Industry to formulate an attractive Project and will only proceed to procurement when the Project definition is clear and resources are in place to deliver.

10.2.2 Financial Risk

Risks identified specific to the financing of the Project include:

- Risk of inflation rising above that predicted;
- Risk of change of structure affecting performance;
- Risk of insufficient insurance cover;
- Risk of interest rates rising above that originally used to price the contract both prior to and after financial close.

These risks will be reviewed in detail during the pre-procurement stage when detailed modelling is undertaken.

Financial risks are considered further in *Supporting Document 5: Qualitative Assessment of Procurement Options*.

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The Councils may be prepared to consider taking more financial risks after the construction phase.

10.2.3 Regulatory Risk

A major requirement of the regulatory regime affecting the operation of any waste treatment facility will be compliance with The Pollution Prevention and Control (Scotland) Regulations 2000 (SSI 2000/323) (the PPC Regulations) which implement the IPPC Directive. This entails obtaining a PPC permit from SEPA that will specify an emissions control regime specific to each facility and process. In order to avoid unnecessary delay it is intended that any application for a PPC permit will be lodged by the contractor in parallel with an application for detailed planning consent in order that the permit can be issued as soon as planning consent is obtained. Advice will be sought from the local SEPA office prior to submission of a PPC application.

The Project will liaise with SEPA prior to submission of a PPC application, which will be made at the same time as an application for planning consent.

10.2.4 Planning Risk

This Project will require planning consents. An application for Outline Permission or Planning Permission in Principle will be submitted during 2009/10 for waste facilities at Millerhill to establish the principle of waste usage. An application will then be lodged in detail by the preferred bidder when the configuration of the facilities making up the chosen solution is finally agreed. It is recognised that the siting of new waste management facilities can be highly contentious and risks delay to the Project and to delivery of its essential services and outputs. The capacity of each facility and the chosen waste treatment technology are significant planning considerations.

The Project considers that in practice there is a small amount of planning risk that can be passed to the Contractor.

The Councils shall mitigate planning risk by applying for Outline Planning Permission or Planning Permission in Principle, prior to Procurement.

10.2.5 Legislative Risk

There is a significant risk of legislative changes over the period of a 25-year contract that could result in additional costs and/or reduced benefits or outcomes from the Project.

Government guidance appropriate to the Project determines that where there are specific changes in environmental laws or rules governing projects, the balance of cost will be borne by the public sector. Where these changes are of a more general nature, eg changes in employment law, the risk should be transferred to the contractor. In practice, the

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distinction between these categories may not be sufficiently clear or the impact of the changes may be so great that some partial sharing of risk may be necessary.

The Project shall seek to transfer the risk of general changes in legislation to the contractor while accepting that the risk of specific changes will be largely retained. On balance, the risk associated with legislative change is considered to be a shared risk.

10.2.6 Demand Risk

There is a balance to be struck between procuring a residual waste treatment solution that risks being too small to cope with future demand and one which is so large that it increases the planning risk to an unacceptable degree. It is also important to ensure that the residual waste treatment contract allows for reducing volumes of MSW and does not constrain the current or future levels of source-segregated recycling and composting.

Prediction of future waste volumes and composition is particularly challenging due to the large number of potential variables. As such, the contractor will have to take a view on future changes in waste composition and accept that risk. It is intended that he will be able to use third party waste to balance any shortfalls in residual MSW in order to mitigate this risk.

There must be sufficient flexibility in a contract to allow the Councils to maximise their recycling, composting and waste prevention activities without penalty for the resulting reduction in residual waste going to the contractor.

WIDP Guidance suggests that Councils maintain a ratio of 1.5 between the Minimum Tonnage and the Maximum Tonnage.

Demand risk will largely be transferred to the contractor who will be encouraged to use any spare capacity for treatment of third party waste.

10.2.7 Contract Risk

The scope of this Project is such that the contractor will only be required to treat residual waste (and potentially food waste) and therefore cannot be held entirely responsible for the achievement of landfill diversion and recycling targets. However, achievement of these targets is still reliant upon the contractor's post-processing recycling and recovery activities to supplement the source-segregated performance of the Councils. The contractor will be given incentives to achieve the highest possible levels of recycling and recovery and the minimum use of landfill disposal.

In the event that the contractor fails to deliver any of the contracted services, it is intended that penalties will be applied. In principle these

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would cover the cost that the Councils would incur to provide the service by alternative means. They would also have to reflect the level of fines to which the Councils would be exposed as a result of the contractor's failure. The Councils, in consultation with their specialist advisers, intend to fully develop a contract risk management strategy for the procurement phase after PID approval and prior to OJEU.

Where any under-performance by the contractor results in the Councils receiving a substandard level of service, payments to the contractor will be reduced or withheld accordingly.

10.2.8 Operational Risk

There is a significant risk with a Project of this scale that the costs of providing the service are different to that forecast. In broad terms, the contractor will be expected to meet the output specification in return for payments made only according to his final tender offer and in line with an agreed payment mechanism and schedule. Accordingly, bidders must take a view on likely future increases in operational costs eg for material, labour, consumables and utilities and will be expected to bear the associated financial risk of these increases exceeding his forecast levels. Similarly the contractor must bear the risk of unplanned "down time".

The quantity of energy that has to be purchased to operate the waste treatment facilities over the life of the contract will be dictated by the technology employed. This is likely to be a very significant issue for the contractor and in turn for the Councils, as the cost will be included in the final tender price. Before submitting a final tender offer, bidders will be expected to supply details of a connection agreement and a power purchase agreement that they have negotiated which will be evaluated by the technical advisers to the Project.

The contractor will be required to bear the operational risk if cost increases exceed what is allowed for in his final tender offer. The contractor must negotiate power purchase and connection agreements appropriate to this Project on terms satisfactory to the Councils and their technical advisers.

10.2.9 Design and Build Risk

There is a risk that the design of the facility or waste treatment system will not meet the requirements of the contract, including significant unplanned breakdowns. The simplicity, robust nature and proven reliability of any technology will be key considerations for the Councils and their technical advisers during the bid evaluation process.

There is also a significant risk of failure to meet targets and of incurring substantial cost overruns if it takes longer than scheduled to construct or commission the waste treatment facilities. Bidders will be provided with all available data on the Millerhill site and will be expected to accept the financial consequences associated with the design and build risk,

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excluding any new road access should the Councils consent to carrying out these works directly.

It is intended that the design and build risk will be transferred substantially to the contractor, the potential exception being access roads.

10.2.10 Technology and Obsolescence Risk

There is a risk over a 25-year waste contract that a chosen technological solution will be superseded or improved upon to such an extent that it becomes obsolete in whole or in part. The extent of this risk and the limit of mitigation options available to the contractor will vary according to the choice of technology.

Substantial upgrading of the waste treatment facilities would be dealt with through a contract change mechanism that ensures the scope and conditions of the contract remain aligned with the needs and objectives of the Project and the regulatory environment over time while still delivering the services. This offers flexibility to both parties. The contractor is likely to seek to introduce a contract change where net savings can be made and shared with the Councils. The Councils are more likely to seek to introduce a contract change when upgrading could significantly improve the performance of the facilities but it would add to the overall cost.

Technology and obsolescence risk will in principle be transferred to the contractor but where financial and/or performance benefits are possible by upgrading the waste treatment facilities, it will be possible to share the benefits or costs through a change mechanism in the contract.

10.2.11 Off-Take Risk

The Councils will continue to be responsible for the processing and marketing of the dry recyclables and green waste that they separately collect or that are collected on their behalf, but the contractor will be responsible for all products or outputs from residual waste treatment in the form of EfW, including energy.

While some MBT technologies are robust and well proven in operational terms, the products need a market or at least an outlet that counts towards landfill diversion. This shall form a key part of the evaluation bids. The Councils shall not be exposed to unacceptable market/product risk but may be prepared to share longer term risk.

The major output from most conventional MBT processes is stabilised bio-waste, which might have a limited use in land remediation or as refuse-derived fuel (RDF). EfW processes produce metals and ash or char which is capable of being recycled. Identifying markets or outlets for these outputs is essential to the ability of MBT and EfW systems to meet diversion targets. The risk of finding guaranteed medium term outlets is far too great for local authorities to accept but the Project may be willing to

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consider longer term risk sharing.

Bidders will be required to provide evidence of guaranteed markets and/or outlets for process outputs with the potential for Councils to share longer term risks.

10.2.12 Landfill Tax Risk

The Partner Councils are exposed to further increases in landfill tax as a result of the 2007 budget. The overall aim of managing this risk is therefore to minimise landfill tax costs. Where the diversion requirements of the output specification are met or exceeded by the contractor, the Councils will reimburse the costs of landfill tax incurred and paid by the contractor. The Councils will therefore retain landfill tax 'rate risk' where diversion targets are met.

Where the contractor fails to achieve the contract diversion targets and no corresponding compensation is due as a result of under-performance on the part of the Councils' collection agents, reimbursement of landfill tax will be up to the contract rate of diversion only.

The Partner Councils are committed to minimising landfill. The landfill tax risk may be shared but the contractor will bear both landfill tax volume and rate risk where contract diversion targets are not achieved.

10.2.13 Landfill Allowance Risk

The intention is to manage the landfill allowance risk using the same principles as for management of landfill tax risk.

While the Government has indicated that fines are currently suspended for local authorities that fail to obtain sufficient landfill allowances to cover the amount of municipal waste they landfill, are still at significant risk of receiving stiff penalties. These are up to £150 for every tonne landfilled in excess of their allowance plus a proportionate share of any EC fine imposed on the UK. It has been calculated that for any delays beyond 2013, Councils are exposed to potential fines in the order of £0.4m per month.

Contractors face uncertainty as the extent of their financial exposure if Councils are forced to purchase surplus allowances in the event of failure to achieve the contract diversion targets. However, the Councils do not consider it feasible to predict their availability or value with a sufficiently high degree of accuracy to transfer this risk fully to the contractor without eroding the value for money or the bankability of the Project.

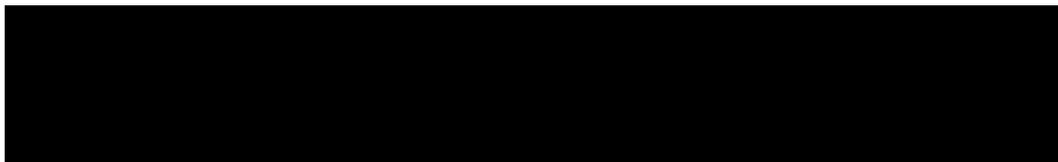
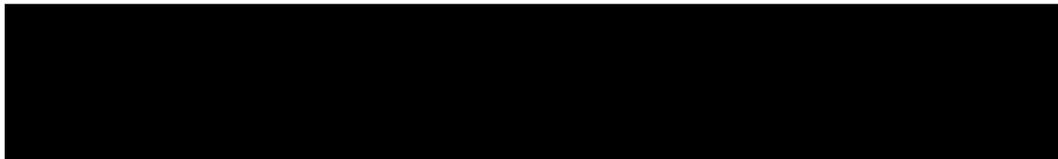
The Councils therefore intend to follow the guidance contained in the 4Ps procurement pack ie this suggests that the level of deductions is fixed at Contract signature for the duration of the Contract based on a reasonable estimate of the anticipated LATs implications in each Contract Year.

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Due to uncertainty over whether Councils will be allowed to trade surplus allowances that will arise as a result of this Project, no income has been assumed from this source during financial modelling.

The risk associated with the availability, demand and value of tradable permits is likely to be shared between Councils and contractor, with the limit of the contractor's liability for missing diversion targets being determined during competitive dialogue.

10.2.14 Existing Contract Risk



10.2.15 Residual Value Risk

There is a risk that the value of any assets provided by the contractor is different at the end of the contract from the estimate made at the outset. In practice, waste treatment facilities are unlikely to have any significant value after 25 years of usage and there may even be a need to decommission and dispose of obsolete plant and to carry out restoration of the land.

The Project Agreement will give the Councils the right to notify the contractor if they wish assets to be transferred back to them at the end of the contract. The period of the notice will be sufficient to allow for an independent survey and valuation to be carried out on the project assets and for deductions to be made to the unitary charge if the assets have not been adequately maintained.

Where any Project asset is to be transferred from the contractor to the Councils at the end of the contract, the residual value risk will be with the Contractor.

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10.2.16 Environmental Risk

There is a risk of adverse environmental impacts from ground conditions impacting on the construction or operation of facilities. This risk will be borne entirely by the contractor on any sites provided by the contractor. It is also intended that the environmental risk in respect of the Millerhill site will also be transferred to the contractor from service commencement on the basis of the suitability and acceptance of surveys.

The Councils will retain the risk of dealing with any existing environmental issues on Millerhill. The contractor will be expected to maintain the necessary legal consents and permits to operate the facilities and to hand back any site in no worse condition than when it was transferred into his control.

The environmental risk of adverse ground conditions on Millerhill affecting contract delivery will in the main be retained by the Councils.

10.3 Contingency Plans

On the Board's request, the project team will develop contingency plans for any risks which are deemed to warrant such an approach.

11. Configuration Management and Project Filing

The full configuration management procedure to be adopted and the Project's filing structure are documented in the Quality Plan. (*Supporting Document 10*)

12. Business Case Sign Off

Partner Council's Commitment

The Partner Councils agree the following shared vision statement and common aim:

“The Councils shall work together co-operating constructively and openly to realise the delivery of the Best Practicable Environmental Option with respect to Municipal Solid Waste in line with the Lothian and Borders Waste Strategy outlined in the Area Waste Plan.”

“The common aim is to deliver and share the use of the required waste facilities and services to ensure that the targets of the Councils are realised as part of the progression towards Zero Waste.

The Councils recognise the corporate commitment and resources required to successfully deliver this Project. The Councils are committed to putting in place the necessary Project Team, Project Budget and Inter-Authority Agreement necessary to take the Project through procurement to successful completion of a Contract.

The Councils agree in principle to make budget available at an indicative level of £3.8m over a period of 3 years. Subject to agreed affordability limits and delivery of a Project in line with this PID, the Councils further commit to providing the necessary budget for a 25 year period.

This Project Initiation Document was agreed by the Zero Waste Project Board on 16th April 2009.