

Mid Kent Joint Waste Contract

Schedule 3 to the Agreement

Payment Mechanism

Payment Mechanism

1.0 Contract Sum and Monthly Charge

1.1 The Contract Sum shall be the annual payment for the Services due and payable to the Contactor and shall be derived the calculation set out at Annex A to this Schedule 3, based on the Bills of Quantities applicable in each Contract Year. The Contract Sum in each Contract Year shall be the total of the twelve Monthly Charges paid in each such year.

1.2 The Monthly Charge due and payable to the Contractor in respect of each Contract Month shall be calculated as follows:

$$\mathbf{MC = PC + CCA + CCM + CCS + BCC + SCSCA + SCSCS + ASC + DWSC - PD}$$

where:

MC = the Monthly Charge;

PC = the Preliminaries Charge associated with the provision of the Services, calculated in accordance with paragraph 4 below, and with reference to the relevant Bill of Quantities;

CCA = the Collection Charge (Ashford) for collection of residual waste, recycling, food waste and garden waste calculated in accordance with paragraph 4 below, and with reference to the relevant Bill of Quantities;

CCM = the Collection Charge (Maidstone) for collection of residual waste, recycling, food waste and garden waste calculated in accordance with paragraph 4 below, and with reference to the relevant Bill of Quantities;

CCS = the Collection Charge (Swale) for collection of residual waste, recycling, food waste and garden waste calculated in accordance with paragraph 4 below, and with reference to the relevant Bill of Quantities;

BCC = the Bulky Collection Charge for collection of bulky waste, clinical waste and bring bank waste calculated in accordance with paragraph 5 below and with reference to the relevant Bill of Quantities;

SCSCA = the Street Cleansing Services Charge (Ashford) payable for the provision of street cleansing services, calculated in accordance with paragraph 6 below and with reference to the relevant Bill of Quantities;

SCSCS = the Street Cleansing Services Charge (Swale) payable for the provision of street cleansing services, calculated in accordance with paragraph 6 below and with reference to the relevant Bill of Quantities;

ASC = the Additional Services Charge payable for the provision of additional services, calculated in accordance with paragraph 7 below and with reference to the relevant Bill of Quantities;

DWSC = the Day Works Services Charge, payable for the provision of day works services, calculated in accordance with paragraph 7 below and with reference to the relevant Bill of Quantities;

PD = any Performance Deductions made by the Councils calculated in accordance with paragraph 8 below.

Mid Kent Joint Waste Contract - Schedule 3 - Payment Mechanism 301121

- 1.3 The Bill of Quantities refers to those prices detailed at Schedule 14 of this Agreement and shall be fully inclusive of all costs for labour, plant and materials, including all overheads, maintenance, insurance, taxation, running and fuel costs, etc, supervisory and administrative costs and Contractor's profit.

2.0 Payments

- 2.1 The Contractor shall be paid in accordance with the rates and prices contained in the Bills of Quantities and with the provisions of this Schedule 3. So far as practicable, any variation from the Bills of Quantities in quantities or type of work, provided it is of a similar nature and executed under similar conditions, shall be valued at such rates and prices in the Bills of Quantities as may be applicable. The rates and prices in the Bills of Quantities shall be used as a basis for valuation so far as may be reasonable for any other variations in the work.
- 2.2 Within 10 Business Days after the last Day of each Month during the Contract Period, the Contractor shall provide to the Supervising Officer a Monthly Report in respect of the Services provided during such Month in accordance with the terms of **Clause 18** of the Agreement. The Contractor shall be responsible for obtaining, retaining, ensuring the accuracy of, and recording all weighbridge information and other documentary evidence required to support the Monthly Charge and Monthly Report. The Lead Authority will implement a BACS payment process to the Contractor for payment of the Monthly Charge.
- 2.3 The Monthly Report referred to in Paragraph 2.2 above shall be submitted in an electronic format to be approved by the Supervising Officer.
- 2.4 Within 30 days after the receipt of the Monthly Charge and Monthly Report referred to in paragraph 2.2, the Council shall pay the Monthly Charge having particular regard to any Additional Services and Day Works Services Charges or Performance Deductions required or agreed by the Supervising Officer.
- 2.5 The Lead Authority shall pay to the Contractor such Value Added Tax as may be properly chargeable by the Contractor in respect of each invoice detailing the Monthly Charge in connection with the provision of the Services provided the Contractor shall have first issued a VAT invoice in respect thereof.

3.0 Indexation

- 3.1 Indexation of the relevant elements of the Bills of Quantities shall be calculated annually from 1st April (the "Indexation Date") in each Contract Year, with the first indexation date being 1st April 2023 (prior to the Commencement Date). The relevant elements shall be calculated on each Indexation Date by multiplying the "Relevant Proportion" (as defined in Table 1 below) of each element within the Bill of Quantities by the relevant index.
- 3.2 For the purposes of paragraph 3.0 the prices in the Bills of Quantities shall be adjusted by the Relevant Proportion of each of CPI, DERV, National Living Wage and AEI respectively as follows:

Mid Kent Joint Waste Contract - Schedule 3 - Payment Mechanism 301121

$$I = \left(\frac{IF_n - IF_b}{IF_b} \right) \times RP$$

where:

IF_n = (with the exception of the National Living Wage) the index figure for the relevant index published in February immediately prior to the April of the Contract Year in which the relevant Indexation Date occurs. The National Living Wage index is adjusted in line with the NLW to take effect from the April of the Contract Year in which the relevant Indexation Date occurs;

IF_b = the index figure for the relevant index published in respect of the Base Date (see 3.1.3 below); and

RP = the Relevant Proportion for the relevant index as shown in Table 1 below.

TABLE 1 - BASKET OF INDICES		
Index	Contractor Funded Fleet Relevant Proportion (RP)	Fleet Funding by Council Relevant Proportion (RP)
Fixed Investment Element:(FIE)	10%	0%
CPI Index 00: All Items 2015 – 100; CDID D7BT Index Equation Ref: (CPI)	25%	28%
Dept for Business, Energy and Industrial Strategy Table 4.1.1. Typical retail prices of petroleum products and a crude oil price index(1) - Diesel Index Equation Ref: (F) (DERV)	10%	11%
National Living Wage (NLW) (Based on age 23 and over rate)	10%	11%
ONS - Monthly Digest of Statistics 'Average Earnings Index.'(O.N.S – EARN 01 (TAB 4) TABLE K54U) (AEI)	45%	50%

Please Note: In the case of the index figure for the Average Earnings Index only, if the index figure for IF_n is less than IF_b in any Contract Year, the index figure for IF_n shall be deemed to be IF_b .

Please note weightings on staff costs may be adjusted subject to review of TUPE information.

3.3 Where the Contractor purchases the fleet the relevant price taken from the Bill of Quantities (**Px**) shall be adjusted by applying the following calculation on an annual basis:

$$\mathbf{Px = (Pb \times 25\%(CPI_n/CPI_b)) + (Pb \times 10\%(DERV_n/DERV_b)) + ((Pb \times 10\%(NLW_n/NLW_b)) + (Pb \times 45\%(AEI_n/AEI_b))}$$

where:

Pb = the relevant baseline price submitted in the tender.

CPI_n = the CPI Index for February of the Review Year as published on 30th April of the Review Year

CPI_b = the CPI Index for September 2022 as published on 30th November 2022

DERV_n = the DERV index for February of the Review Year as published on 30th April of the Review Year

DERV_b = the DERV index in September 2022 as published on 30th November 2022

NLW_n = the National Living Wage in April of the Review Year

NLW_b = the National Living Wage for 'Age 23 and over' from April 2022

AEI_n = the Average Earnings Index in February of the Review Year as published on 30th April of the Review Year

AEI_b = the Average Earnings Index in September 2022 as published on 30th November 2022

3.4 Where the Council purchases the fleet the relevant price taken from the Bill of Quantities (**Px**) shall be adjusted by applying the following calculation on an annual basis:

$$\mathbf{Px = (Pb \times 28\%(CPI_n/CPI_b)) + (Pb \times 11\%(DERV_n/DERV_b)) + (Pb \times 11\%(NLW_n/NLW_b)) + Pb \times 50\%(AEI_n/AEI_b).$$

See Reference definitions as per 3.3.1

3.5 Changes to Indices affecting any Indexation Factor

3.5.1.1 If there is a material change in the nature or basis of CPI (or any other index used in this Contract), or if an index is discontinued, the Parties shall seek to agree upon an alternative to the affected index which as closely replicates that index as is possible, and such consequential changes shall be made to the calculations provided

for in this paragraph as are necessary to ensure that all payments to be made pursuant to this Contract shall be the same as if such change had not occurred. Any dispute regarding changes to an index and/or calculations may be referred by either Party to the Disputes Resolution Procedure set out in **Clause 54** of the Agreement.

3.5.1.2 If any error or mistake shall occur in the publication for the figures for CPI (or any other index used in this Project Agreement) which have been used at any time in any calculation pursuant to this Schedule which is subsequently duly acknowledged and corrected by the entity responsible for publishing that index, the calculations in which the incorrect figures were used for the adjustments of any part of the Monthly Charge shall be recalculated using the correct figures and the relevant provisions of paragraph 3.3 shall apply. Any dispute regarding the recalculations pursuant to this paragraph may be referred at the request by either Party to the Disputes Resolution Procedure. Any overpayment or underpayment by either Party to the other which has occurred as a result of the incorrect figures shall be paid or repaid by the Party to the other within fifteen (15) Business Days of the recalculation being agreed or determined (as the case may be).

3.6 The Contractor should note that in year variations will be costed from baseline information where available and indexed accordingly, where costs are not within the baseline they will only be subject to indexation from the year in which the variation was implemented.

4.0 Relevant Events

4.1 Where the Parties agree that the financial consequences of a Relevant Event or the payment of or release from any sum are best dealt with or without a revision to any or all of the Bills of Quantities, they shall agree to make such revision to the Monthly Charge as necessary on a one-off or recurrent basis.

4.2 Prior to making any changes to any or all of the Bills of Quantities (subject to any express provision of this Agreement to the contrary), the Parties shall agree the date for the change and the basis of the revision to the relevant component of the Monthly Charge.

4.2.1 Except for revisions due to a Contractor change which results in costs savings, the Monthly Charge shall be revised so as to ensure that the Contractor is in no better and no worse position (as defined by paragraph 4.2.3) than it was prior to the revision date and the event which gave rise to the need for the revision.

4.2.2 The Contractor shall take all reasonable and appropriate steps to mitigate the effects of any revision including, in particular but without limitation, mitigating any adverse impact upon the Councils.

Mid Kent Joint Waste Contract - Schedule 3 - Payment Mechanism 301121

4.2.3 Any reference in this Agreement to "no better and no worse" and to leaving the Contractor being in a "no better and no worse position", shall be construed as to ensure that the ability of the Contractor to comply with this Agreement is not adversely affected or improved as a consequence of the Relevant Event.

4.2.4 In adjusting the Monthly Charge any changes to the individual components of the Monthly Charge being the individual elements within the Bills of Quantities (including the Additional Services and Dayworks rates) and the agreed levels for Performance Deductions which make up the calculation of the Monthly Charge should reflect the same drivers and methodology used to determine those components at the time of entering into this Project Agreement, taking into account the way in which those drivers and methodology has been reflected in the Bills of Quantities.

5.0 Preliminaries Charge and Waste Collection for Residual/Recycling/Food/Garden Waste

5.1 The Preliminaries Charge is quantified in BQ1 of the Bill of Quantities. The Monthly Charge for Preliminaries is calculated as one-twelfth of each Contract Sum specified.

6.0 Waste Collection for Residual/Recycling/Food/Garden Waste

6.1 Waste Collection Services for Residual/Recyclable Materials/Food/Garden Waste are quantified within the Bill of Quantities BQ2 Ashford, BQ3 Maidstone, BQ4 Swale and the associated Waste Data file at Appendices 5,6 and 7 of the Specification. The Monthly Charge is calculated as one-twelfth of each Contract Sum specified.

Annual Household Review

6.2 Where the Authorised Officer revises the number of Households as part of the Annual Review, the relevant "Annual Sums" within the Bill of Quantities will be adjusted up or down pro rata to the change in the baseline quantity.

6.3 Where appropriate the cost of supplying a replacement or new receptacle for either Residual or Recyclable Materials Collections will be reimbursed to the Contractor in accordance with Bill of Quantities rates.

6.4 The Supervising Officer will advise the Contractor of the revised Household numbers for indexation purposes with regards Residual/Recyclable Materials and Food Waste Collection Services from 1st April in each Contract Year. The data will be based upon the Councils' Council Tax records as at 31st March preceding the Index Review date. The revised Household numbers will replace the baseline household numbers detailed in the Bill of Quantities for the new Contract Year and the relevant element within the Bill of Quantities shall be revised pro rata accordingly.

6.5 The Contractor is required to collect from new Households as and when advised by the Council to do so in each Contract Month. The Contractor shall absorb the impact of increased numbers of Households during the Contract Year at its own cost.

Mid Kent Joint Waste Contract - Schedule 3 - Payment Mechanism 301121

- 6.6 The baseline household numbers for the first Contract Year are detailed in the Specification and Specification Appendices 5,6 and 7 and summarised below:

SPECIFICATION - See Appendix Excel Files: App 5 - ABC, App 6 -MBC and App 7 SBC				
Household Collection Data				
Description	ABC	MBC	SBC	Total
Total Number of Households as at Oct 2021	56,410	76,174	65,048	197,632
Collection Frequency	ABC	MBC	SBC	Total
No of Individual Households with Alternate Weekly Collections	51,352	64,282	60,301	175,935
No of Individual Households with Weekly Collections	521	772	4,747	6,040
No of Communal Households with Alternate Weekly Collections	3,988	5,246	n/a	9,234
No of Communal Households with Weekly Collections	549	5,874	n/a	6,423
Total	56,410	76,174	65,048	197,632
Collection Container Type	ABC	MBC	SBC	Total
Total No of Households on sack collections	2,374	1,922	3,852	8,148
No of Households on Bulk Bins	4,537	11,120	n/a	15,657
No of Households on standard collections	49,499	63,132	61,196	173,827
Total	56,410	76,174	65,048	197,632
Description	ABC	MBC	SBC	Total
No of Assisted Collections	1,053	1,358	1,263	3,674
Description	ABC	MBC	SBC	Total
Number of Schedule 2 Collections	67	259	25	351
Description	ABC	MBC	SBC	Total
No of Garden Waste Bins collected*	20,572	32,568	20,337	73,477
No of Households with Garden Waste Collectons*	19,350	31,023	19,297	69,670

- 6.7 With regard to Garden Waste Collection the change in the number of Households and Containers will be drawn from the Councils' Garden Waste customer service information. A revision to the number of Households will only be applied in respect of Garden Waste if the additional Households are actually receiving a Garden Waste Collection Service. The baseline Garden Waste Collection numbers for the first Contract Year are detailed in the Specification and Specification Appendices 5, 6 and 7 and summarised in the table above.
- 6.8 The first review of Household numbers/Garden Waste Collection numbers will be applied from the Services Commencement Date to allow for any increase in Households from the issue of tender documentation to the commencement of the Services to be reflected in the calculation of the Monthly Payment. The revised Household numbers will replace the baseline Households numbers detailed in the Bill of Quantities for the first Contract Year and the relevant element within the Bill of Quantities shall be revised pro rata accordingly.
- 6.9 A second review of Household numbers/Garden Waste Collection numbers will be undertaken to take effect from 1st April 2024 with subsequent reviews annually thereafter with effect from 1st April in each Contract Year. The revised Household numbers will replace the baseline Households numbers detailed in the Bill of Quantities for the new Contract Year and the relevant element within the Bill of Quantities shall be revised pro rata accordingly.

7.0 Bulky and Clinical Waste Collections Services

These will be calculated monthly based on the number of Bulky Waste and Clinical Waste Collections made by the Contractor in the relevant Contract Month multiplied by the relevant rates for the individual requirements associated with Bulky Waste and Clinical Waste Collections, which are specified in BQ5 in the Bill of Quantities.

8.0 Street Cleansing Services

Mid Kent Joint Waste Contract - Schedule 3 - Payment Mechanism 301121

- 8.1 All Street Cleansing Services are quantified within the Bill of Quantities, Specification and the associated Waste Data files at Specification Appendices 5, 6 and 7.
- 8.2 Street Cleansing Services are quantified within the Bill of Quantities BQ6 Ashford and BQ7 Swale and the associated Waste Data file at Appendices 5 and 7 of the Specification. All references to a Monthly Charge are calculated as one-twelfth of each Contract Sum specified.
- 8.3 Where the Supervising Officer revises the quantity to be cleansed by the Contractor as part of the Annual Review the Bills of Quantities sum payable will be adjusted pro rata to the change in the baseline quantity.

9.0 Additional Services – Small Services and Dayworks

- 9.1 These will be calculated monthly based on the amount of Additional Services provided by the Contractor in the relevant Contract Month.
- 9.2 Rates for Additional or Small Services are set out in each of BQ8 in the Bill of Quantities. Each such Service is described by reference to a "Per Request", "Per Item" or day rate specified. The value of the relevant item shall be multiplied by the number of times it is requested per month by the Councils to derive the Additional Services Charge.
- 9.3 Rates for Dayworks are set out in BQ9 in the Bill of Quantities. Each Service (being either specified labour rates, or rates for specific Services such as Graffiti Removal, Fly Poster Removal and Street and Pedestrian Area Washing) is priced on the basis of an hourly rate or day rate. The value of works carried out in the relevant Contract Month shall be calculated by multiplying the relevant hourly or day rate by the number of actual hours or days worked by the Contractor, to derive the Dayworks Services Charge.

10.0 Performance Deductions

- 10.1 The Contractor shall provide monthly reports on the Contractor's performance against each Performance Criteria. If the Contractor fails to meet any of the Performance Criteria then the Council may make Performance Deductions on a monthly basis in accordance with Schedule 4 (Performance Mechanism).
- 10.2 No Performance Deductions shall be incurred if, and to the extent that, an Excusing Cause causes a failure in the performance of the Services, provided that the Contractor first complies with the obligations set out in clause **13.3 (Excusing Causes)** of this Project Agreement.
- 10.3 Performance Deductions and Performance Failure points shall apply from the **date one Month after the Service Commencement Date (being 22nd November 2023)**.
- 10.4 Performance Deductions will be indexed in line with the service indexation rates detailed at 3.3.

Mid Kent Joint Waste Contract - Schedule 3 - Payment Mechanism 301121

10.5 The aggregate of all Performance Deductions calculated in respect of any Contract Year shall not exceed (and shall be capped at) **five per cent (5%)** of the Contract Sum in any Contract Year.

11.0 Annual Review

At each anniversary of the agreement the Supervising Officer shall review the Contractor's performance against the Performance Criteria and amend the Performance Criteria for the following contract year(s), with the agreement of the Contractor. In the absence of agreement between the Supervising Officer and the Contractor the existing Performance Criteria will remain in effect.

Mid Kent Joint Waste Contract - Schedule 3 - Payment Mechanism 301121

Annex A – Option One – Collection broken down by Authority

Contract Sum – Breakdown of Contract Sum

Item	Service Area	Description	Bill of Quantities Reference
1	Preliminaries		BQ1
	Waste Collection Services		
2		Residual/Recycling/Food/Garden Waste Collection ABC	BQ2
3		Residual/Recycling/Food/Garden Waste Collection MBC	BQ3
4		Residual/Recycling/Food/Garden Waste Collection SBC	BQ4
5		Bulky/Clinical ABC, MBC and SBC	BQ5
	Sub Total Collection Services		
	Street Cleansing Services		
6		Street Cleansing Services ABC	BQ 6
7		Street Cleansing Services SBC	BQ 7
	Sub Total Street Cleansing Services		
	Additional Services		
8		Additional/Small Services	BQ 8
9		Dayworks	BQ 9
	Sub- Total Additional Services		
	SUB TOTAL CONTRACT SERVICES		
10	Less Performance Deductions/Adjustments		
11	CONTRACT SUM PAYABLE		

Mid Kent Joint Waste Contract - Schedule 3 - Payment Mechanism 301121

Annex A Option Two – Collection Broken down by waste stream

Contract Sum – Breakdown of Contract Sum

Item	Service Area	Description	Bill of Quantities Reference
1	Preliminaries		BQ1
	Waste Collection Services		
2		Residual Waste Collection- ABC/ MBC/SBC	BQ2
3		Recycling and Food Waste Collection- ABC/ MBC/SBC	BQ3
4		Garden Waste Collection - ABC/ MBC/SBC	BQ4
5		Bulky/Clinical Waste Collection - ABC/ MBC/SBC	BQ5
	Sub Total Collection Services		
	Street Cleansing Services		
6		Street Cleansing Services ABC	BQ 6
7		Street Cleansing Services SBC	BQ 7
	Sub Total Street Cleansing Services		
	Additional Services		
8		Additional/Small Services	BQ 8
9		Dayworks	BQ 9
	Sub- Total Additional Services		
	SUB TOTAL CONTRACT SERVICES		
10	Less Performance Deductions/Adjustments		
11	CONTRACT SUM PAYABLE		