

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting: 9th February 2016
Report of: Peter Bates, Chief Operating Officer
Subject/Title: Environmental Services Operating Contract
Portfolio Holder: Cllr. Sam Gardner, Open Spaces

1. Report Summary

- 1.1. The purpose of the report is to consider a request from the Council Company, Ansa Environmental Services Ltd for an extension on its existing contract for the delivery of Waste and Environmental Services. The request is made in order for them to enter into new procurement arrangements for waste processing and deliver future benefits to the Council.
- 1.2. In its first year of trading, Ansa has delivered the contract efficiencies required by the Council whilst at the same time exceeding its performance indicators and delivering a profit from its operations. In order to deliver future benefits, however, there is a need for Ansa to let new waste and recycling processing contracts that will require a 10-15 year service commitment.
- 1.3. Ansa Environmental Services Ltd has therefore proposed a 10 year extension to its existing contract due to expire on 1st April 2021 to give an unelapsed period of 15 years from 1st April 2016 (ending 1st April 2031) with a rolling one year extension each year thereafter, assuming they have achieved the appropriate performance standards.

2. Recommendation

- 2.1. That the Cabinet approve delegated authority to the Portfolio Holder for Open Spaces in consultation with the Chief Operating Officer and Director of Legal Services to vary the Service Operating Contract of Ansa Environmental Services and associated agreements, subject to due diligence being undertaken by legal, procurement and finance.

3. Other Options Considered

- 3.1. To achieve best value for the Council, Ansa need to relet our main waste and recycling processing contracts. There is currently insufficient time (5 years) remaining on Ansa's contract with the Council to enable them to effectively secure value for money. Any new contracts let would extend beyond the current end date of Ansa's contract with the Council.

- 3.2. The alternative would be for the Council to procure and manage these waste and recycling processing contracts itself. This would however involve a contract modification to Ansa's operating contract as this function and the procurement staff involved have been transferred to Ansa. It would also be against the high level objectives of the Council's waste strategy that seek to deliver services in a cost effective way through a wholly owned company.

4. Reasons for Recommendation

- 4.1. In its waste strategy 2030 the council set out to deliver services in a cost effective way through a wholly owned company. Since its inception in April 2014, Ansa has delivered what has been asked of it by the council. Targets are being met and efficiencies made so that a quality service is maintained on the council's behalf. It is now important to consider ensuring this positive development is not stunted before further benefits are reaped.
- 4.2. As part of the waste strategy to reduce disposal to landfill to zero and achieve 100% disposal to waste to energy generation the Council is constructing its central environmental hub. Ansa now need to procure a number of contracts to coincide with the opening of the hub to allow the treatment and disposal of waste ending landfilling and delivering savings associated with it. At present however Ansa's contract with the Council is due for renewal only 4 years after the hub is completed.
- 4.3. This time limitation on the scope of Ansa's development would be unduly restrictive since any contracts they subsequently entered into with third parties dealing with various aspects of waste management and treatment would be too short for most companies to agree with. To hamstring our successful ASDV in this way would not make economic, environmental or financial sense.
- 4.4. The waste industry is in a very fluid state currently and new ways of managing waste are developing all the time. Ansa need to have some certainty around its long term future so that it could procure contracts that were the most advantageous for the council. An efficient, healthy and stable Ansa will bring about many benefits for both the council and residents.

5. Background/Chronology

- 5.1. Following a detailed review of how the council's waste and environmental services were being run it was determined that an arms length company model was best placed to deliver the service. Ansa Environmental Services Ltd was created in 2014 with a 7 year contract with intal savings targets associated with service efficiencies, the construction of new infrastucture and the reletting of the major waste and recycling contracts.

- 5.2. Now nearing the end of its second year of operation, Ansa has achieved all that has been asked of it in an increasingly challenging financial environment.
- 5.3. A key development early in Ansa's existence was the sale of its southern depot (Pym's lane) and the purchase of a new purpose built central environmental hub. This new site is currently under construction and will not be fully operational until 2017.
- 5.4. Ansa are now considering the procurement of contractors who will manage the collected waste from 2017 onwards and have therefore requested a contract extension at this point to begin this procurement process.

6. Wards Affected and Local Ward Members

- 6.1. Ansa operates across the Council area so all wards are affected

7. Implications of Recommendation

7.1. Policy Implications

- 7.1.1. The recommendation is in line with the Council Waste strategy 2030 objectives. The following high level objectives of the new waste strategy are relevant:
 - To deliver services in a cost effective way through a wholly owned company.
 - ensure that residual waste is managed to support waste prevention, reuse and recycling, minimising waste produced; and
 - to reduce disposal to landfill to 0 and achieve 100% disposal to waste to energy generation
 - To utilise waste that cannot be reused or recycled as a resource for energy generation helping to alleviate fuel poverty in the borough.

7.2. Legal Implications

- 7.2.1. The contract does not contain any express provisions for the extension of the Agreement beyond the 1st of April 2021, however if the parties are in agreement the contract can be extended beyond 2021 by a Deed of Variation.
- 7.2.2. The Deed of Variation should also be used as a mechanism to make other contractual changes consequential to any agreement to extend the contract such as changes to KPIs to ensure the ongoing monitoring of quality and value over the extended period. The Deed of Variation can also be used as an opportunity to make other consequential changes to address any practical issues that have emerged while the contract has been in operation.

7.2.3. Consideration will also have to be given to extending and amending the terms of other agreements such as the support services agreement property leases and licences in line with any extension.

7.2.4. When considering the extensions and variations the Council will have due regard to its statutory requirements such s123 of the Local Government Act 1972, State Aid and the Public Contracts Regulations 2015

7.3. Financial Implications

7.3.1. The contract extension will enable the realisation of savings associated with procuring medium term waste and recycling processing contracts.

7.3.2. Annual management fees are negotiated under the terms of the existing operating contract with Ansa in order to deliver best value to the Council through its service provision.

7.3.3. Appropriate due diligence will be carried out by finance prior to entering any renewed contract.

7.4. Equality Implications

7.4.1. None

7.5. Rural Community Implications

7.5.1. None the contract extension serves all wards of Cheshire East.

7.6. Human Resources Implications

7.6.1. The contract extension will require legal, procurement and finance responses led through the commissioning team.

7.7. Public Health Implications

7.7.1. None

7.8. Other Implications (Please Specify)

7.8.1. None

8. Risk Management

8.1. Ansa Environmental Services is a Council owned company delivering core services previously undertaken by the Council Waste and Environmental Services Department and hence is not subject to competition in the award

of the renewal of this contract. Appropriate due diligence will be undertaken by legal, procurement and finance.

9. Access to Information/Bibliography

- 9.1. Cheshire East Council Municipal Waste Management Strategy 2030 - http://www.cheshireeast.gov.uk/waste_and_recycling/waste_strategy_and_performance/waste_strategy/waste_strategy.aspx

10. Contact Information

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