

Cheshire East Council

Portfolio Holder Decision

Date of Meeting:	13 th March 2017
Report of:	Ralph Kemp, Corporate Manager Commissioning – Waste and Environmental Services
Subject/Title:	Environmental Services Operating Contract extension
Portfolio Holder:	Cllr Don Stockton

1 Report Summary

1.1 At the Cabinet meeting of 9th February 2016, it was resolved:

- That Cabinet grants 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.

1.2 The purpose of this report is to request that Ansa Environmental Services Ltd.'s ("Ansa") existing contract for the delivery of Waste and Environmental Services is varied to allow for an extension of the contract to 1st April 2031. This will enable Ansa to enter into new procurement arrangements for waste processing and deliver future benefits to the Council.

1.3 Now in its third 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.

1.4 A 10 year extension to its existing contract is being proposed, (the current contract is 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 Ansa have achieved the appropriate performance standards.

2 Recommendation

2.1 That the Portfolio Holder for Regeneration (formerly Open Spaces) in consultation with the Chief Operating Officer and Director of Legal Services, vary the Service Operating Contract of Ansa Environmental Services and associated agreements in accordance with the attached Deed of Variation.

3 Other Options Considered

- 3.1 To achieve best value for the Council, Ansa need to re-let the main waste and recycling processing contracts. There is currently insufficient time (5 years) remaining on Ansa's contract 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 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 to 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 the Council has asked of it. Targets have been 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 continues before reaping further benefits.
- 4.2 A key aspect of the waste strategy is to reduce disposal to landfill to zero and achieve 100% disposal to waste to energy generation, to achieve this 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 completion of the hub.
- 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 is able to procure contracts that are the most advantageous for the Council. An efficient, healthy and stable Ansa will bring about many benefits for both the Council and residents, and offset budget pressure in supplying household bins to new housing within Cheshire East in the context of increased house building.

5 Background/Chronology

- 5.1 Following a detailed review of the Council's waste and environmental services, it was determined that an arms length company model was the best to deliver the service. Ansa was formed in 2014 with an initial 7-year contract and savings targets associated with service efficiencies, the construction of new infrastructure and the re-letting of major waste and recycling contracts.
- 5.2 Now nearing the end of its third year of operation, Ansa has achieved all its targets in an increasingly challenging financial environment.
- 5.3 A key development early in Ansa's existence was the sale of its southern depot (Pyms Lane) and the purchase of a new purpose built central environmental hub. This new site is currently under construction and will be operational in 2017.
- 5.4 Ansa are now considering the procurement of contractors who will manage the collected waste from 2017 onwards and therefore need a contract extension at this point to begin this procurement process.
- 5.5 Procurement, Legal and Finance have been engaged throughout in the proposed extension to Ansa's contract. The relevant due diligence to consider what changes are required to Ansa's contract has been undertaken. Changes to KPIs to ensure the ongoing monitoring of quality and value over the extended period have as a result been proposed and agreed with Ansa.

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 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 agree, the contract can be extended beyond 2021 by way of a Deed of Variation.
- 7.2.2 In addition, the Deed of Variation will 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. 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.

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 Implications for Children and Young People

- 7.8.1 None

7.9 Other Implications (Please Specify)

- 7.9.1 None

8 Risk Management

- 8.1 Ansa Environmental Services is a Council owned company delivering core services previously undertaken by the Council's Waste and Environmental Services Department and hence is not subject to competition in the extension of this contract.

9 Contact Information

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