

Report To: Cabinet

Date of Meeting: 25th September 2018

Lead Member / Officer: Councillor Brian Jones, Lead Member for Highways, Planning & Sustainable Travel / Tony Ward, Head of Highways & Environment

Report Author: Tara Dumas, Waste and Recycling Manager / Helen Makin, Legal and Procurement Operations Manager

Title: Contract Variation for DCC Household Recycling Centres

1. What is the report about?

- 1.1 The Council must consider the future operating arrangements for its three Household Recycling Centres (HRCs) in Ruthin, Denbigh and Rhyl in order to optimise value for money for this popular household service. This report requests the contract be further extended to explore collaboration opportunities with other North Wales Local Authorities.

2. What is the reason for making this report?

- 2.1 On 1st April, 2009, the Council entered into a seven year contract for the receiving, keeping, treating and disposal of household waste that is taken to Denbighshire HRCs by members of the public. There are currently three sites, one located in Rhyl, one on the Colomendy Industrial Estate in Denbigh and one on the Lon Parcwr Estate, Ruthin. Due to the strong performance of the contractor, the option to extend the contract for three years was evoked. The contract is due to expire 31st March 2019 and the Council must determine the future operating model for the three sites.

A decision is now required on whether to grant a further extension to the current contractor, CAD Recycling, to enable Denbighshire County Council to participate in an exercise with the WRAP Cymru Collaborative Change Programme (see Appendix 1) and other North Wales Authorities. The project is due to commence later this month and will identify whether there are opportunities to realise savings from HRC operations across the region through joint procurement and/or rationalisation of services.

- The cost of the contract extension for 2 years is: £ 3,293,995
- The cost of the contract extension for 3 years is: £4,940,993

3. What are the Recommendations?

- 3.1 That Cabinet agree to extend the existing contract by 2 years (to March 31st 2021) allowing a contingency of a third year (until March 31st 2022).
- 3.2 That Cabinet authorises the Head of Legal and Democratic Services to issue a Contract Variation letter to CAD Recycling to extend the existing contract by 2 years

(to March 31st 2021) allowing a contingency of a third year (to March 31st 2022). This enables us the flexibility to procure services at any time, should the Collaboration Project conclude earlier than anticipated. It also provides enough time to mobilise a new arrangement.

- 3.3 That the Head of Highways and Environmental Services reports on the progress and/or outcomes of the Collaborative Change Project to Scrutiny Committee no later than December 2019, along with recommendations as to the preferred option for future commissioning of HRC services.

4. Report details

- 4.1 The WRAP Cymru Collaborative Change Programme will work with local authorities in North Wales over the next 12 months to determine whether savings may be possible by rationalising services across geographical boundaries and through joint procurement with other local authorities. . The first phase of this work will be undertaken from September 2018 and includes:

- Outline of project scope and methodology
- Potential options and parameter setting
- Baseline development – data gathering

- 4.2 It is anticipated that Officers will be able to report on the outcome of the collaboration project no later than December 2019. The report will identify the benefits (if any) of undertaking a joint procurement of the regional HRCs, and provide options / recommendations as to how the services will be specified and procured. If additional benefits are identified from rationalising current service provision, the report will also include a business case for this, detailing how implementation may be funded (e.g. provision of new strategically placed infrastructure serving more than one authority) and how costs are apportioned between authorities. The report will also examine the option of continuing with stand-alone DCC HRCs and the commissioning options around this.

5. How does the decision contribute to the Corporate Priorities?

- 5.1 Environment: Attractive and Protected, supporting well-being and economic prosperity:

CAD Recycling have become a significant new entry to the Waste Industry Markets and are locally based, with head offices in Denbigh. The contract with the Council has enabled them to grow as a business, offering employment locally, and contributing to the local economy. As part of their community benefits commitments, they continue to provide apprenticeships and employment opportunities locally. Should the contract extension be approved, the Collaboration Project will identify the most efficient way to procure services in the longer term and in the mean-time offers the Council value for money.

- 5.2 Connected Communities: Communities are connected and have good access to services locally, online and through good transport links: The current three sites offer local waste and recycling opportunities to residents and an efficient and accessible service.

6. What will it cost and how will it affect other services?

A further extension of up to three years will cost an additional £4.94M, bringing the total contract value between 2009 and 2019 to £16.5M. Contracted HRCs will have a total contract value of £21.4M by March 31st 2022.

The Council has existing provisions to cover annual contract value. CAD Recycling have agreed to no indexation throughout the extension period. There will be no impact on any other services. Work needed to undertake the HRCs collaboration project will be contained within existing resources.

7. What are the main conclusions of the Well-being Impact Assessment?

A Well-being Impact Assessment is not required as there is no change to current service provision proposed.

8. What consultations have been carried out with Scrutiny and others?

The need to examine regional collaboration opportunities for operation of HRCs has been identified through the Technical Officers Group and Joint Committee of the North Wales Residual Waste Treatment Partnership. Any significant change in future service provision would be subject to public consultation and consultation with other relevant stakeholders.

9. Chief Finance Officer Statement

9.1 From a financial perspective the medium term extension of the contract recommended in this report will mean that costs are contained within existing resources over the 2 year period, while also allowing the Council the time to participate in the regional project which it is hoped will identify saving opportunities going forward. It can also be confirmed that the proposed action complies with Financial and Contract Procedure Rules.

10. What risks are there and is there anything we can do to reduce them?

10.1 There are no foreseen operational or reputational risks as the services will not change as a result of the contract extension.

10.2 The following key risks have been identified and will be managed by the Collaborative Procurement Unit and Legal Services:

- Legal challenge in relation to the procurement process – the contract is being extended rather than commencing a procurement process. Legal observation is that the extension is the best solution during this period of possible change through regional collaboration for a project that was not foreseen by the Council. It is also more likely than not that it is not value for money to undertake a procurement now and enter into a short term contract, managed by the input of specialist legal advice in terms of the extension process and drawing up the required documentation;
- Legal challenge in relation to the variation of the contract. Advice is that values relating to the total value of the contract and the total value of a 3 year extension are compatible with EU Regulations. There is no substantial variation as we have

not increased the price and the change in the specification (relating to black bin bags) has not resulted in a price change.

- There is a financial risk in that under the existing contract terms, disposal costs of household general waste (black bag waste) taken to the HRCs are included in the fixed fee element of the HRC contract. In 2019, the region's Energy from Waste (EfW) facility, Parc Adfer will be available to treat Denbighshire household residual waste. We require specific waste streams from our HRCs to make up our Guaranteed Minimum Tonnage, for which we pay a set fee to the EfW operators. Therefore, failure to deliver this waste to Parc Adfer could result in us paying twice for the treatment of waste. A condition to the contract extension is that all residual waste arising from the HRCs meeting the criteria for EfW treatment at Parc Adfer is delivered by CAD Recycling to a nominated transfer station. The Council will charge CAD for the reception of this waste, at a rate comparable to current market rates. It is important to note that CAD Recycling have agreed to this condition, to be specified in the Contract Variation letter.

11. Power to make the Decision

- 11.1 Cabinet is required to agree the extension of this contract by rule 6.8.1 iv of the Council's Contract Procedure Rules.
- 11.2 The Council also has power to enter into contracts pursuant to section 111 Local Government Act 1972 (power to undertake any act to facilitate, or which is conducive or incidental to, the discharge of any of their functions); section 135 Local Government Act 1972 (power to make standing orders to govern entering into contracts), section 112 Local Government Act 1972 (appoint such officers as they think necessary for the proper discharge by the authority of the authority's functions); section 3(1) Local Government Act 1999 (general duty on a best value authority to make arrangements to secure continuous improvement in the way in which its functions are exercised) and section 1(2) Local Government Contracts Act 1997 (empowers local authorities to enter into a wide range of contracts providing assets or services in connection with the discharge of their functions).

Appendix 1: Collaborative Change Programme (CCP)

The Welsh Government has offered all local authorities the opportunity to participate in a Collaborative Change Programme (CCP) to help ensure that Wales meets the recycling targets set out in Towards Zero Waste and also included in the Municipal Sector Plan.

The Programme is open to individual authorities and it should also be considered as a key tool for enabling partnership working and collaboration on the delivery of services.

The programme is not only about how authorities will achieve targets, it also aims to support the active sharing of good ideas and practices that can improve efficiency in terms of cost reduction and improvement in performance. This includes services that are more environmentally sustainable, with lower ecological and carbon footprint impacts. It also includes services that are more financially sustainable, with lower net costs of service delivery.

Delivery of the CCP is through a dedicated team from WRAP Cymru. The WRAP team has a range of knowledge, skills and experience to deliver modelling, options appraisals, business plan preparations, procurements and operational delivery, with support from consultants where appropriate.

The WRAP Cymru staff are experienced in financial and environmental modelling and in every aspect of waste and recycling collections, from kerbside collections, operating Materials Facilities through to household waste and recycling centres (HWRCs) and depots.

The CCP provides capital grants in support of service changes by local authorities and these are administered by the CCP Grants Assessment and Award Panel which includes Welsh Government officials and representatives of WLGA and WRAP.