

**Copy of report S213**

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**TITLE: MEMORANDUM OF AGREEMENT FOR THE INSOURCING OF THE WASTE AND STREET CLEANSING SERVICES**

Committee: Regulatory Services Committee

Date: 22<sup>nd</sup> January 2018

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**1.0 ISSUE**

- 1.1 To agree the transfer of the Council's Waste Services to East Cambs Street Scene Limited.
- 1.2 To provide the Regulatory Services Committee with the draft final Memorandum of Agreement (MOA) for the insourcing of the waste and street cleansing services to East Cambs Street Scene Limited and to outline the key issues in the agreement and the allocation of roles, responsibilities and service delivery risks between the Council and East Cambs Street Scene Limited going forward.
- 1.3 To seek approval for the MOA and its schedules as the basis for the insourcing of the waste and street cleansing services and to delegate powers to the Chair of this Committee and Director, Operations for any minor amendments to the MOA before its signature in March 2018, with any such amendments being reported back to this Committee.

**2.0 RECOMMENDATION(S)**

- 2.1 That the following be recommended to full Council for approval:
  - i. That the Waste Services contract is awarded to East Cambs Street Scene Limited from 1 April 2018.
  - ii. Approve the MOA and its schedules as the basis of the insourcing of waste and street cleansing services to the East Cambs Street Scene Limited from 1 April 2018.
  - iii. To delegate powers to the Chair or Vice-Chair of this Committee and the Director, Operations to make any necessary minor amendments to the MOA before its signature in March 2018.

**3.0 BACKGROUND**

- 3.1 On 23 February 2017 (Agenda Item 9 (Exempt)) Council approved the transfer of the Waste Services contract to East Cambs Trading Company (ECTC). At the time of the award of the contract ECTC was a Teckal compliant company and as such the contract could be awarded without the need to go through a formal tendering process. Subsequent to this decision it became apparent that ECTC would not be able to maintain its Teckal status.

- 3.2 On 4 January 2018 (Agenda Item 9C) Council approved the establishment of a new Local Authority Trading Company. The Council has now filed registration documents for the establishment of East Cambs Street Scene Limited. Once incorporated, East Cambs Street Scene Limited will be a Teckal company capable of being awarded the Council's waste contract.
- 3.3 With the exception of the change in the company it is awarding the contract to there are no changes to be made to the award of contract that was granted on 23 February 2017.
- 3.4 This report contains the draft final Memorandum of Agreement for the insourcing of the waste and street cleansing services to East Cambs Street Scene Limited for approval as required by the last updated report submitted to this Committee in November 2017.

#### 4.0 **STRUCTURE OF THE MEMORANDUM OF AGREEMENT**

- 4.1 **Future Service Delivery Arrangements:** An agreement between the Council and the Trading Company has been developed that clearly sets out the future roles and responsibilities for the Council and East Cambs Street Scene Limited in the delivery of the waste and street cleansing services. This puts in place a more flexible relationship than a client and contractor relationship and is based on a Memorandum of Agreement (MOA) with a series of supporting schedules, rather than a traditional contract.
- 4.2 **The Memorandum of Agreement (MOA):** The structure of 5-page MOA includes the following:
- a) **Section 1 – Purpose of the Agreement:** How the Council and East Cambs Street Scene Limited intend to work collaboratively and the principles that shall underpin their relationship between the Council and East Cambs Street Scene Limited.
  - b) **Section 2 - Interpretation:** The definitions and rules of interpretation that shall apply to the MOA.
  - c) **Section 3 - Roles and Responsibilities:** The Council's role in setting out the policy framework and strategic direction for the services and East Cambs Street Scene Limited then being responsible for delivering the services against the set policy framework and strategic direction.
  - d) **Section 4 - Payment for Services:** East Cambs Street Scene Limited shall receive an annual management fee paid in 12 equal payments and based on open book accounting between the Trading Company and the Council. The only payment deductions that shall apply are for the non-achievement of the set stretch targets to be delivered by East Cambs Street Scene Limited.
  - e) **Section 5 – Changes in the Services:** How the Council can change the scope of the services to be provided and the treatment of additional costs and/or efficiencies to be delivered.
  - f) **Section 6 – Duration of the Agreement:** From 1 April 2018 to 31 March 2025. Both parties shall have the right to terminate the MOA by giving 12 months' notice in writing.
- 4.3 **Supporting Schedules to the MOA:** The MOA is underpinned by the following schedules:

- a) **Schedule 1:** A series of Performance Stretch Targets to be delivered by East Cambs Street Scene Limited over a five-year period. These stretch targets are intended to drive the continued improvement of the services.
- b) **Schedule 2:** The Service Specification for the Waste Service, the service requirements and standards to be delivered by East Cambs Street Scene Limited.
- c) **Schedule 3:** The Service Specification for the Street Cleansing Service, the service requirements and standards to be delivered by East Cambs Street Scene Limited.
- d) **Schedule 4:** The Risk Allocation Matrix that sets out in detail risks allocated to East Cambs Street Scene Limited, the risk retained by the Council and the shared risk. This schedule fundamentally underpins the MOA and provides the future roles and responsibilities for the Council and East Cambs Street Scene Limited.
- e) **Schedule 5:** The Partnership Protocol for the delivery of the waste and street cleansing services that sets out how the Council and East Cambs Street Scene Limited shall work together.
- f) **Schedule 6:** The service delivery proposals of East Cambs Street Scene Limited to meet Schedules 1 to 5.
- g) **Schedule 7:** The Final Base Case prepared by East Cambs Street Scene Limited to confirm the costs of providing the services and the resultant management fee that East Cambs Street Scene Limited shall be paid. This in effect is a refinement of the Outline Base Case that was considered by the Council when it resolved to insource the waste and street cleansing services.
- h) **Schedule 8:** Property arrangements for the delivery of the waste and street cleansing services, a simple licence to occupy the current depot facility that is outside the Landlord and Tenant Act.
- i) **Schedule 9:** Support Services Arrangements for services to be provided on commercial terms by the Council to East Cambs Street Scene Limited to underpin the delivery of the waste and street cleansing services; e.g. accountancy and budget management, payroll, internal audit, operational HR (predominantly employee relations activities), strategic HR (policy development in response to Legislation), ICT, and Transport (provision of vehicles and plant core to the delivery of the service).

4.4 All the documents detailed above have been subject to external legal review to validate they are fit for purpose. Minor amendments to the schedules of the MOA may be necessary until the signature of the MOA in March 2018. Consequently this Committee is recommended to give delegated powers to the Chair of this Committee and the Director, Operations to make any necessary minor amendments to the MOA before its signature.

## 5.0 **FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT**

5.1 The MOA in Schedule 7 contains the Final Base Case for the delivery of the waste and street cleansing services. This has been prepared against the original base case

presented to this Committee when the decision was taken to insource the waste and street cleansing services. The Base Case is provided in the following tables (attached):

- **Table 1 – Revised Base Case 2018/19:** Cost Comparison to the Trading Company Cost Summary presented to the Trading Company Board on 10 January 2017 and the Original Base Case prepared by the Waste Consultant with revisions to reflect the progression of the project for the insourcing of the waste and street cleansing services and clarification of costs, including a 1.2% pay award to the Veolia in October 2017.
- **Table 2 – Revised Base Case 2019/20:** Cost Comparison to the Trading Company Cost Summary and the Revised Base Case (Table 1) to include for employer pension increases in 2019/20 of 1% and debt costs for the replacement of the two Polybody collection vehicles.
- **Table 3 – Revised Base Case 2020/21:** Cost Comparison to the Trading Company Cost Summary and the Revised Base Case (Table 1) to include for debt costs for ten 26 tonne replacement refuse collection vehicles.
- **Appendix 1:** Includes the detailed costings by service stream that build up to the Revised Base Case, (Table 1).

5.2 In summary the Base Case confirms the following:

- i) Table 1, the Revised Base Case for 2018/19 confirms the profit and indirect overhead costs included in the Revised Base Case to be paid to East Cambs Street Scene Limited. This brings the overall costs for the delivery of the waste and street cleansing service back within the current budget provision of £2.402 million. The Revised Base Case also includes the following additional resources to the Trading Company's Cost Summary:
  - a. The pay award to Veolia staff paid from October 2017.
  - b. The additional employer pension contributions of 1% required for the People's Pension in 2018/19.
  - c. Three additional vehicles to support bulky waste collections and collections from unadopted and difficult to reach properties.
  - d. Personal Protective Equipment (PPE) for all frontline staff.
  - e. 60 frontline staff for waste collections and street cleansing and an allowance of agency staffing to cover sickness absence. This exceeds the 56 staff currently being deployed by Veolia to enhance the current standards of service delivery.
  - f. Profits re-aligned at 2.8% of operational costs and direct overheads.
- ii) Appendix 1 contains the cost build by service stream that underpins the Revised Base Case for 2018/19.
- iii) Table 2, the Revised Base Case for 2019/20 confirms the profit and indirect overhead costs included in the Revised Base Case to be paid to East Cambs Street Scene Limited. This brings the overall costs for the delivery of the waste and street cleansing service back within the current budget provision of £2.402 million. The

Revised Base Case also includes the following additional resources to the Trading Company Cost Summary:

- a. The additional employer pension contributions of 1% required for the People's Pension in 2019/20.
  - b. Debt repayments for two Polybody collection vehicles.
- vi) Table 3, the Revised Base Case for 2020/21 confirms the impact of the inclusion of the debt costs for replacing the ten refuse collection vehicles that were funded externally based on retaining weekly domestic waste collections. This will result in service costs circa £245k above the Trading Cost Summary. However, if the proposals to reconfigure collection rounds are implemented in 2019/20 this may well off-set these additional costs if the reconfiguration is fully carried through.
- 5.3 There are no immediate equalities implications from this report. However, Schedule 6 of the MOA contains the Trading Company's proposals for the delivery of the services including measures to ensure equality matters are considered and addressed in the delivery of the services.
- 6.0 APPENDICES
- 6.1 Appendix 1 – Memorandum of Agreement
- 6.2 Appendix 2 – Schedule 6 Trading Company delivery proposals

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**Background Documents**

**Location**

Room GF009  
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