

A separate report is submitted in the private part of the agenda in respect of this item, as it contains details of financial information required to be kept private in accordance with Schedule 12A of the Local Government Act 1972. The grounds for privacy are that it contains information relating to the financial and business affairs of any particular person (including the authority holding that information). The public interest in maintaining the exemption under Schedule 12A outweighs the public interest in disclosing the information.

Cabinet
Council

17th July 2018
4th September 2018

Name of Cabinet Member:

Cabinet Member for City Services – Councillor J Innes

Directors Approving Submission of the report:

Deputy Chief Executive (Place)

Ward(s) affected:

None

Title:

Commercial Waste Expansion Plan

Is this a key decision?

No

Executive Summary:

Coventry City Council's Commercial Waste team continues to deliver a gross income of c.£5.7m per annum. Over the last five years a proportion of this income has been achieved by successfully providing a Commercial Waste service on behalf of Nuneaton and Bedworth Borough Council (NBBC).

Building on this successful relationship with NBBC the City Council's Commercial Waste Team have explored further areas for joint working between the two authorities.

This report seeks delegated approval from Cabinet to conclude negotiations with NBBC, and to enter into an agency agreement with them to deliver domestic recycling collections to the residents of Nuneaton and Bedworth Borough. Further approval is also sought from Council to include in the 2018/2019 capital programme the cost of purchasing five split bodied refuse vehicles to service this arrangement.

The private report on this proposal sets out in more detail the total cost of servicing the Agency Agreement, the charge to be applied and what is included within that charge.

Recommendations:

Cabinet is requested to:

- 1) Approve in principle the Agency Agreement with Nuneaton and Bedworth Borough Council to allow the City Council to act as an agent to service the operation of their domestic recycling collection.
- 2) Delegate authority to the Deputy Chief Executive (Place) and the Director of Streetscene and Regulatory Services in consultation with the Cabinet Member for City Services to give final approval to the Agency Agreement including the TUPE transfer of the existing operational team to the City Council.
- 3) Delegate authority to the Deputy Chief Executive (Place) and the Director of Streetscene and Regulatory Services in consultation with the City Solicitor to undertake all necessary due diligence and steps required to enter into the relevant legal agreements and associated documents necessary to complete the transaction.

Cabinet is asked to recommend that Full Council:

1. Approve that the sum identified within the private element of the report is added to the Council's 2018/2019 capital programme, funded from the on-going revenues of NBBC agency agreement, for the acquisition of 5 new vehicles to be used to service the arrangement set out in this report.

Full Council is recommended to:

1. Approve that the sum identified within the private element of the report is added to the Council's 2018/2019 capital programme, funded from on-going revenues of NBBC agency agreement, for the acquisition of 5 new vehicles to be used to service the arrangement set out in this report.

List of Appendices included:

None

Other useful background papers:

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

Yes – 4th September 2018

Report title: Commercial Waste – Agency agreement with Nuneaton & Bedworth Borough Council

1. Context (or background)

- 1.1 The City Council's Commercial Waste team successfully implemented a partnership with Nuneaton and Bedworth Borough Council (NBBC) in January 2013 to take over the operational responsibility for NBBC's Commercial Waste business. This strategic partnership has given the City Council's Commercial Waste team a sound financial basis on which to expand its operation north of the City boundary, and to date this arrangement has proved successful for both authorities.
- 1.2 Following the success of the Commercial Waste partnership with NBBC, the City Council's Commercial Waste team have worked with NBBC to identify further opportunities to partner.
- 1.3 This report seeks approval for the City Council's Commercial Waste team to provide domestic waste recycling rounds to NBBC on a commercial basis using an agency agreement, along with addition of funds (included within the private element of the report) to the 2018/2019 capital programme to finance the vehicles required to service this contract.
- 1.4 NBBC's Cabinet met on 13th June 2018. They approved in principle that the domestic waste recycling collections in the borough be transferred to the City Council's Commercial Waste team from their existing private sector contractor under an Agency Agreement. NBBC's Cabinet further approved that this transfer would take place at the end of October 2018, subject to commercial terms being agreed with the City Council's Commercial Waste business. It should be noted that the treatment of the recyclable materials collected and any associated costs will remain the responsibility of NBBC for the duration of the agency agreement.
- 1.5 It is therefore proposed to transfer operational responsibility from NBBC existing contractor to the City Council's Commercial Waste team at the end of October 2018.
- 1.6 It will also be necessary to provide five split bodied refuse vehicles to service the agency agreement with NBBC.
- 1.7 The commercially sensitive element of the proposals are set out in more detail within the private report submitted.

2. Options considered and recommended proposal

- 2.1 Two options have been considered in reaching the recommendations above.
- 2.2 **Option 1 (Not recommended)** – is to not enter into an agency agreement with NBBC, in effect accepting that this work will be tendered on the open market.
- 2.3 **Option 2 (recommended)** – to enter into an agency agreement with NBBC as described in section one of the report. Allow the City Council to benefit from additional revenue over the life of the agreement.

3. Results of consultation undertaken

Given the commercially confidential nature of the proposed agency agreement no public or formal consultation has yet taken place outside of the contractual discussions. However, once the agency agreement has been signed, formal consultation with those employees of NBBC's current contractor affected by TUPE will take place.

4. Timetable for implementing this decision

Following approval from Cabinet it is proposed to conclude the detail of the commercial agreement and TUPE negotiations by the end of September 2018. The order for new vehicles will be placed after the approval from Council and the signing of final commercial agreements.

The service is currently planned to go live by the end of October 2018.

5. Comments from the Director of Finance and Corporate Services

5.1 Financial implications

The report is seeking authority to spend capital monies to purchase vehicles in order to provide the services described to NBBC. The debt servicing costs for this investment is included within the overall cost estimate of providing the service, which will be recovered from NBBC on a commercial basis.

5.2. Legal implications

5.2.1 The power for the City Council to enter into the Agency Agreement with Nuneaton and Bedworth Council arises from the express provisions in s. 101(1)(b) of the Local Government Act 1972 and Part 3 of the Local Authorities (Arrangement for the Discharge of Functions)(England) Regulations 2012. These provisions confer power upon each council to make arrangements for the discharge of functions by another local authority. The manner and terms upon which the City Council will be entitled to exercise the functions will be covered in the agency agreement entered into between the parties.

5.2.2 The Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”) would apply to the transfer of the operation of the commercial waste related functions to the City Council as set out in this report. Accordingly, those employees who are assigned to the carrying out of these functions would transfer to the City Council’s employment on the commencement of the new arrangements for the service.

6. Other implications

6.1 How will this contribute to achievement of the Council's Plan?

The City Council’s Commercial Waste business has historically been a net contributor to the City Council’s finances helping to support other services financially. The growth of the City Council’s Commercial Waste activities has been identified as a key strand of the Place Directorates overall commercial strategy.

6.2 How is risk being managed?

Coventry City Council’s risk and implementation programme will be managed through the existing Commercial Waste Project Board. In addition regular liaison meetings will be held with NBBC to ensure that joint project risks are appropriately managed.

6.3 What is the impact on the organisation?

The impact on the organisation is limited to officer time to finalise the agency agreement / TUPE requirements, and to implement the service transition.

6.4 Equalities / EIA

The report recommendations do not affect the Council's policy, provision of any service or its statutory functions. It is not required to undertake an Equality Impact Assessment.

6.5 Implications for (or impact on) the environment

None

6.6 Implications for partner organisations?

None

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