

## EAST AYRSHIRE COUNCIL

CABINET – 15 JUNE 2011

### AYRSHIRE JOINT STRATEGIC WASTE MANAGEMENT PROJECT PROGRESS UPDATE

#### Report by the Depute Chief Executive/Executive Director of Neighbourhood Services

#### 1. Purpose

- 1.1 To advise Cabinet on progress on the development of the Outline Business Case (OBC) and provide an update on the financial position in relation to the Ayrshire Joint Strategic Waste Management Project.

#### 2. Background

- 2.1 The Ayrshire Joint Strategic Waste Management Project Group was established to procure a residual waste management solution to comply with the EU Waste Directives, and the Scottish Government's Zero Waste agenda as they apply to the three Ayrshire Councils.
- 2.2 The Ayrshire Joint Strategic Waste Management Project is supported by Council staff from the three authorities in respect of financial, procurement, legal and waste management issues. Support on planning issues is provided by the Ayrshire Joint Planning Unit.
- 2.3 The Ayrshire Joint Strategic Waste Management Project Group, recognising that an increasing amount of work would be required to take the project forward through the procurement stage and on to contract award, agreed a full time Project Manager with a 0.5 FTE clerical post be appointed. Initially both posts are for a fixed period of 3 years, with the ability for these to be extended for a further 2 years subject to funding. The costs involved are shared between the 3 Councils and this was agreed by Cabinet 17 December 2008.

#### 3. Proposal

- 3.1 In relation to the development of the OBC, a technical options appraisal was carried out which recommends a reference case for the Project based on Mechanical Biological Treatment (MBT) of residual waste.
- 3.2 The three inter-related parameters which are pivotal in terms of the delivery of the revised reference case of MBT and which will be presented within a robust Outline Business Case are:
  - i) An accurate determination of waste tonnage and composition which will be consigned to the residual waste facility, as this will

determine the required capacity and guaranteed minimum tonnage for the residual waste treatment facility.

- ii) Regulatory certainty in terms of source segregation and separate collection of specific waste materials; restrictions in terms of banning materials from landfill disposal; and restrictions in terms of thermal treatment of waste which will be provided by the proposed Zero Waste (Scotland) Regulations 2011 and carbon metric.
- iii) Ensuring that the revised reference case provides Value for Money and an affordable technical solution to all three Ayrshire Councils which will be provided by our external financial advisers.

- 3.3 Following publication of the Scottish Government's Carbon Metric on 15th March 2011, the technical advisers to the project (Entec) have conducted detailed waste flow modelling on the existing collection schemes, proposed collection schemes, and performance of the MBT reference case against the aforementioned carbon metric. The revised Waste Flow Modelling illustrates that all of the Zero Waste Plan Recycling and Composting targets can be achieved, including the ambitious 70% targets for 2025, subject to caveats around public participation, investment and infrastructure.
- 3.4 It should also be noted that the current waste flow modelling takes due cognisance of SEPA's Recycling Guidance for Annex A of the Zero Waste Plan, which was published on 22nd March 2011. SEPA's Recycling Guidance is particularly prescriptive on which recycling routes will constitute recycling. This will impact on the recycling route for each of the materials collected by East Ayrshire Council as this in turn will determine the resulting performance against the carbon metric.
- 3.5 The financial advisers to the project (Ernst & Young) are currently conducting a Value for Money and Affordability assessment to advise of the overall affordability position of the project and the affordability position for each individual Council.
- 3.6 The narrative for the Outline Business Case was completed for 19th May and is currently being peer reviewed by the Scottish Futures Trust.
- 3.7 The initial objective was to enable the OBC to be considered by the three Ayrshire Councils in conjunction with the anticipated ratification of the Zero Waste Scotland Regulations 2011 by the Scottish Parliament in June, thereby giving the necessary regulatory certainty to proceed with the procurement exercise for the joint residual waste treatment facility. However, following the COSLA Waste Managers Network meeting on 23 May, it is apparent that the Scottish Government will be publishing their Regulatory Impact Assessment and policy statement for the Zero Waste (Scotland) Regulations 2011 in July/August of this year that will advise of any "flexibility" on policy/target

dates. The draft Zero Waste Scotland Regulations 2011 are expected to be laid before the Scottish Parliament in late autumn of this year.

#### **4. FINANCIAL UPDATE**

- 4.1 Based on previous experience of similar large scale procurement contracts, professional external advisors will be required to provide expert guidance and support to the in-house project team as the project progresses towards contract award. This will include legal, technical, financial, and insurance advice. It should be noted that the legal, technical, and financial advisers have already been appointed, and it is the intention to procure insurance advisers in due course. The engagement of external advisors is based on a “call off” arrangement for defined work packages and only when this expertise is not available in-house.
- 4.2 In parallel to the procurement exercise for the residual waste treatment facility, a legally binding inter-authority agreement is currently being developed by the 3 Councils to provide the necessary legal entity required to award the residual waste treatment contract.
- 4.3 The expenditure associated with the Ayrshire Joint Strategic Waste Management Project can therefore be apportioned into seven interrelated elements which are financed equally by the three Ayrshire Councils, namely:
- Costs associated with a full time Project Manager and a 0.5 FTE clerical post;
  - Costs associated with the development of an Outline Business Case;
  - Cost associated with a site search process from the development of robust site assessment criteria up until the identification of a potential reference site;
  - Costs associated with prequalification of bidders following the publication of an OJEU notice;
  - Costs associated with the Competitive Dialogue procurement exercise until Contract Award;
  - Costs associated with the Contract Award until the commencement date of the residual waste facility, which incorporates the review of plans, designs, and the role of the independent certifier;
  - Costs associated with establishing a legally binding inter-authority agreement.
- 4.4 The expenditure incurred for the financial year 2009/10 & 2010/11, along with the indicative and reasonably foreseeable projected expenditure (incorporating a prudent contingency) for the aforementioned seven interrelated elements is illustrated in Table 1. The costs presented in Table 1 were obtained from the project advisers based on their experience of similar projects.
- 4.5 It should be noted that the indicative cost estimate for the site search process, from the development of robust site assessment criteria up to the identification of a potential reference site, is based on the Preferred Bidder undertaking the

Planning Application for the proposed facility (including all Planning Consultations and Environmental Impact Assessment).

- 4.6 Following advice on projects of a similar scale and type to the joint residual waste project a contingency of twenty percent was applied to the costs received from the project advisers.
- 4.7 The expenditure associated with the development of a legally binding inter-authority agreement is included in the costs identified in Table 1. The development of this agreement will involve expert guidance and support from the legal, financial, and insurance advisors. The estimated cost of legal advice at this juncture for the preparation of a scoping report and the implementation of the preferred option has been quoted as £15,255, exclusive of VAT.
- 4.8 The project expenditure portrayed in Table 1 should be considered within the context that the procurement costs illustrated will be a fraction of the estimated CAPEX (Capital Expenditure estimated at £110 million) and OPEX (Operational Expenditure estimated at £56/tonne) required to deliver an operational residual waste treatment facility.

Table 1

Description	Financial Year						Project Lifetime Grand Total
	2009/10 (actual)	2010/11 (actual)	2011/12 (estimate)	2012/13 (estimate)	2013/14 (estimate)	2014/15 (estimate)	
<b>Project Manager &amp; Clerical Support</b>	£33,948	£69,801	£69,801	£69,801	£69,801	£69,801	£382,953
<b>Technical Advisers (Procurement)</b>	£64,863	£69,446	£104,850	£40,166	£96,298	£250,000	£625,623
<b>Technical Advisers (Site Search)</b>	N/A	£18,468	N/A	N/A	N/A	N/A	£18,468
<b>Financial Advisers</b>	£24,663	£22,159	£64,439	£59,050	£64,659	£10,661	£245,631
<b>Legal Advisers</b>	£12,579	£10,652	£36,160	£80,513	£77,970	£11,300	£229,174
<b>Insurance Advisers</b>	N/A	N/A	N/A	£25,000	N/A	N/A	£25,000
<b>Miscellaneous</b>	£220						£220
<b>Contingency</b>			£41,090	£35,946	£47,785	£54,392	£179,213
<b>Total</b>	£136,273	£190,526	£275,250	£274,530	£308,728	£341,762	£1,527,068
<b>Total + Contingency</b>	£136,273	£190,526	£316,340	£310,476	£356,513	£396,154	£1,706,282
<b>Per Council</b>	£45,424	£63,509	£105,447	£103,492	£118,838	£132,051	£568,761

## 5. POLICY IMPLICATIONS

- 5.1 In terms of Community Planning in East Ayrshire, making a commitment to deliver a long term residual waste treatment facility is consistent with Aim 8 of the “Delivering Community Regeneration” Action Plan 2009-2011 – “To mitigate against and adapt to the negative effects of climate change” and the national Zero Waste Plan.

## **6. LEGAL IMPLICATIONS**

- 6.1 East Ayrshire Council is obliged to comply with the European Landfill Directive EC/1999/31/EC and National Recycling/Composting Targets which culminates with a recycling target of 70% recycling by 2025.
- 6.2 The inter-authority agreement will provide the Council with a legally binding agreement clearly setting out each partner authority's equal role and responsibility and will act as a vehicle in which to contract with the successful bidder.

## **7. FINANCIAL IMPLICATIONS**

- 7.1 Failure to meet the targets for diverting waste from landfill may result in the Council facing significant financial penalties from the Scottish Government. In addition, the Council would be required to meet the increasing cost of landfill gate fees and taxation.
- 7.2 Project costs as outlined in Table 1 can be met from existing balances and future Zero Waste Fund monies.

## **8. CONCLUSION**

- 8.1 Due the delayed approval of the Scottish Zero Waste Regulations and given that the joint residual waste treatment facility will involve a 25 year operating contract it would be prudent to delay consideration of the Outline Business Case until the Zero Waste Regulations 2011 are ratified, which is now anticipated later this year.

## **9. RECOMMENDATIONS**

- 9.1 It is recommended that Cabinet:
- (i) note the intention to bring the Outline Business Case before Cabinet at the earliest opportunity following publication of the Government's Zero Waste Regulations;
  - (ii) agree to meet the Council's share of the costs involved in securing the necessary support for the Project as set out in Table 1 of the report, with funding to be set aside for this purpose from allocated Zero Waste budgets;
  - (iii) otherwise note content of this report.

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