

## ABERDEEN CITY COUNCIL

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<b>COMMITTEE</b>	Capital Programme Committee
<b>DATE</b>	12 September 2019
<b>EXEMPT</b>	No
<b>CONFIDENTIAL</b>	No
<b>REPORT TITLE</b>	Ness Energy Project Progress Report
<b>REPORT NUMBER</b>	Res/19/363
<b>DIRECTOR</b>	Steve Whyte
<b>CHIEF OFFICER</b>	John Wilson
<b>REPORT AUTHOR</b>	Linda Ovens
<b>TERMS OF REFERENCE</b>	1.1

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### 1. PURPOSE OF REPORT

The purpose of this report is to update the Committee on progress made with regards to the procurement/construction/operation of the Energy from Waste Facility at East Tullos Industrial Estate, as instructed by Council on 4 March 2019.

### 2. RECOMMENDATION(S)

It is recommended that the Committee:-

- 2.1 Note the milestones achieved to date for the project and those that remain, to ensure successful operation of the facility; and
- 2.2 Note the financial position for the project; and
- 2.3 Instruct the Chief Officer - Capital to provide a further update on progress at the next Capital Programme Committee in February 2020

### 3. BACKGROUND

- 3.1 Following an instruction from the Zero Waste Management Sub-committee in 2013, Aberdeen City Council officers approached public authorities in the north of Scotland to determine if it would be possible to develop a joint EfW project.
- 3.2 Aberdeenshire Council and Moray Council both indicated willingness to consider this option. Each council jointly and separately concluded that of the

practical solutions available, the local and regional interests will best be served by collaboration on a joint EfW Facility, to be built in Aberdeen. The main factors influencing the decision were the balance of cost and risk for developing an EfW Facility in the region managed by the three councils against the export of waste to EfW facilities elsewhere, most likely in Europe.

- 3.3. The business case originally developed by Aberdeen City Council in 2013 and revised in 2015 demonstrated that whilst the net cost of export was likely to be slightly less in early years of operation, the medium and long-term costs were substantially higher. In addition, reliance on unknown and unsecured markets for export of waste was a significant risk to the three councils which may result in them not being able to fulfil their statutory duties to collect waste from households in the region.
- 3.4. In the last quarter of 2015, the Councils each approved the Stage 1 Inter Authority Agreement (IAA1) which allowed work to continue between the three Councils to develop the joint solution.
- 3.5. IAA1 enabled the Councils to establish the project's governance arrangements, appoint a part time project director and interim project manager supported by external legal, financial and legal support and work together as a team to develop the detail of an appropriate solution.
- 3.6. In early October 2016, Aberdeen City Council granted Planning Permission for a 150,000 tonnes per annum (tpa) Energy from Waste Facility at East Tullos Industrial Estate Aberdeen.
- 3.7. Later in October 2016, the Councils approved the Stage 2 Inter Authority Agreement (IAA2) to allow progress of the procurement stage of the project.
- 3.8. In February 2017, the Councils launched the formal procurement exercise seeking to identify a preferred bidder who could build and operate the proposed EfW Facility by issuing an Official Journal of the European Union (OJEU) Notice.
- 3.9. A competitive dialogue multi staged procurement exercise was undertaken, initially identifying four bidders who were invited to participate in dialogue with the Councils.
- 3.10. In March 2018, following evaluation of detailed tenders, two of those bidders were shortlisted for further dialogue leading to the submission of final tenders on 13 December 2018.
- 3.11. The Councils identified the preferred bidder that offered the Most Economically Advantageous Tender; in January 2019. The preferred bidder being a consortium group led by Acciona Industrial and Acciona Servicios Urbanos.
- 3.12. In accordance with IAA2, the Councils then sought Council approval to award the Project Agreement to this preferred bidder.

- 3.13. On 4 March 2019, the Council approved the award of the Ness Energy Project Residual Waste Treatment contract (the “Project Agreement”) for the implementation of the Project with the preferred bidder and the next Inter Authority Agreement (IAA3) for the governance arrangements between the Councils for the project during the works and services phases. Similar approvals were given by Moray Council and Aberdeenshire Council on 4 March and 7 March respectively.
- 3.14. The Council approval included an instruction to the Chief Officer - Capital to report back on a six-monthly basis with a progress report to the Capital Programme Committee, with the first report date being the meeting on 12 September 2019.

### **Update since March 2019**

- 3.15 In accordance with the delegation approved by Council in March 2019, on 8 August 2019, the Project Board agreed that the amendments to the Project Agreement made since Council approval of the draft Project Agreement in March 2019 were minor amendments which (i) were necessary to contractualise the preferred bidder’s method statements; or (ii) were permitted under procurement law. Subsequently, the Project Board approved the amendments made since Council approval of the draft Project Agreement in March 2019 and agreed that an officer of Aberdeen City Council should sign the Contract in accordance with Aberdeen City Councils Powers Delegated to Officers (approved 4 March 2019).
- 3.16 The Contract was signed with the Acciona consortium by Aberdeen City Council’s Director of Resources on behalf of the Councils on 9 August 2019. The Contract year will run from 8 August 2019 meaning the construction phase is to be complete and services have commenced by 8 August 2022.
- 3.17 Acciona is now securing the remainder of the supply chain, working towards submitting the Environmental Permit for the Facility and discharging outstanding Planning Conditions that will enable it to commence work on site prior to 10 October 2019 (when the existing planning permission expires).
- 3.18 In accordance with IAA3, the Council will continue to recruit the Project Management team approved in March. Until these posts are filled, the Procurement Project Manager will act as the Council’s Authority’s Representative with support from existing financial, legal and administrative staff.

## **4. FINANCIAL IMPLICATIONS**

- 4.1 In March 2019, the three Councils approved a budget for the Works Price which included allowances for items such as:
- movement in the foreign exchange rate between Submission of Final Tenders and Financial Close which would impact on the Works Price;
  - Brexit consequences – tariffs, border delay, labour access;
  - Increased grid connection costs; and
  - other unforeseen costs.

4.2 The total Works Price of the contract at Financial Close, which incorporates pound sterling:euro exchange rates, was £156,099,860. Under the terms of IAA3 between the Councils, Aberdeen City Council will fund 38.09% of the Works Price.

## 5. LEGAL IMPLICATIONS

5.1 The Project has access to technical and financial external support via the existing contracts with Ramboll (technical) and PricewaterhouseCoopers (financial). A new contract needs to be entered into under the existing legal services framework for legal support and insurance support and this is currently being considered.

## 6. MANAGEMENT OF RISK

A detailed risk register will be developed for IAA3 following a similar format to that developed and maintained for IAA2.

Category	Risk	Low (L) Medium (M) High (H)	Mitigation
Financial	Increased Capital Cost	M	Project contingency budget is available to cover such events and is considered to be set at an appropriate level.
	Delay in construction programme	L	Compensation events are built into the Contract and there is a requirement to take waste at the Planned date regardless of whether facility is ready.
Legal	Expiry of Planning Permission	M	Mitigation measures are in place with regards to discharging pre commencement conditions (revised risk of M), gaining a building warrant and commencing works prior to the 10 <sup>th</sup> October. Weekly meetings are being held with ACC Planning Authority to ensure officers are engaged.
Employee	None		

<b>Customer</b>	None		
<b>Environment</b>	Environmental Permit	L	The Contractor will be submitting the environmental permit before the end of August 2019. The likelihood of rejection is considered to be low at this stage following review of the draft documents
<b>Technology</b>	None		
<b>Reputational</b>	Expiry of Planning Permission	H	Given the public interest in this project, losing planning for the project would be a huge reputational issue. See above.

## 7. OUTCOMES

<b>Local Outcome Improvement Plan Themes</b>	
	<b>Impact of Report</b>
<b>Prosperous Economy</b>	<i>These policies allow the council to mitigate the actions of the 2021 ban on biodegradable waste to landfill (Waste (Scotland) Regulations 2012) with a known and regulated cost, avoiding the unknown and changeable costs involved in shipping and selling RDF. Ability to recover value from the Council's waste.</i>
<b>Prosperous Place</b>	<i>This will act as an enabler for the Torry Heat Network, working to help those households in fuel poverty.</i>

<b>Design Principles of Target Operating Model</b>	
	<b>Impact of Report</b>
<b>Customer Service Design</b>	None
<b>Organisational Design</b>	None
<b>Governance</b>	None
<b>Workforce</b>	None
<b>Process Design</b>	None
<b>Technology</b>	None

<b>Partnerships and Alliances</b>	This is an exemplary project that demonstrates partnership working between Aberdeen City, Aberdeenshire and Moray.
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## 8. IMPACT ASSESSMENTS

<b>Assessment</b>	<b>Outcome</b>
<b>Equality &amp; Human Rights Impact Assessment</b>	<i>Full EHRIA not required. Evidence submitted to Equalities Team.</i>
<b>Data Protection Impact Assessment</b>	<i>Screening questions completed – not required</i>
<b>Duty of Due Regard / Fairer Scotland Duty</b>	<i>Not applicable (Strategic decision making predated this duty).</i>

## 9. BACKGROUND PAPERS

RES/19/197- Council, 4 March 2019 Joint Energy from Waste Project Contract Award (and IAA3)

CHI/16/320 – Communities Housing and Infrastructure, 24 January 2017  
Progress Report for Torry Phase 1 District Heating Network

CHI/16/257 – Council, 24 October 2016  
Inter Authority Agreement on Energy from Waste (IAA2)

CHI/15/337 – Council, 16 December 2015  
Energy from Waste Inter Authority Agreement (IAA1)

H&E/14/023 – Housing & Environment, 11 March 2014  
Revision of the Aberdeen City Waste Strategy

## 10. APPENDICES (if applicable)

None

## 11. REPORT AUTHOR CONTACT DETAILS

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