

# Finance and Resources Committee

10am Thursday, 17 March 2016

## Award of Residual Waste Treatment Contract - Delegated Authority

Item number	7.18
Report number	
Executive/routine	Executive
Wards	All

### Executive Summary

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The Zero Waste Residual Waste Treatment Project is scheduled to reach Financial Close by 31 March 2016. On 27 November 2014 Committee delegated authority to the Acting Director of Services for Communities to sign all necessary contract documents for the Project. As a result of changes in the Council's executive management structure, it is now necessary for the Committee to delegate authority to the Executive Director of Place to enter into and sign the contract documentation.

### Links

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Coalition pledges	P49, P50
Council outcomes	C07, C08
Single Outcome Agreement	S01, S04

## Award of Residual Waste Treatment Contract - Delegated Authority

### 1. Recommendations

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It is recommended that the Committee:

- 1.1 Delegate authority to the Executive Director of Place, or in his absence the Head of Environment, to enter into and sign the following documents on behalf of the City of Edinburgh Council in each case subject to such amendments as the Executive Director of Place may deem appropriate:
  - the Project Agreement with FCC;
  - the inter-authority agreement with Midlothian Council dealing with the contract management regime between the two Councils for the residual waste treatment (“Inter-Authority Agreement”); and
  - all other ancillary documentation relative to the Zero Waste Project (ZWP).

### 2. Background

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- 2.1 On 10 December 2014 FCC Medio Ambiente SA was appointed as Preferred Bidder for the Zero Waste: Edinburgh and Midlothian Residual Waste Contract, following the decisions taken by Committee on 27 November 2014 and Midlothian Council on 2 December 2014 to make the appointment.
- 2.2 Committee delegated authority to the Acting Director of Services for Communities to enter into the required contractual documentation.
- 2.3 The procurement is now reaching the stage of Financial Close when the Project documentation requires to be entered into.

### 3. Main report

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- 3.1 On 14 March 2013 the City of Edinburgh Council agreed:
  - 3.1.1 To offer to the bidders a Capital Contribution, to be injected when the plant was fully commissioned with a years track record of service delivery and not to exceed 30% of the cost of the asset or assets constructed at the project

site, providing said assets reverted to the Partner Councils ownership at the end of the concession.

- 3.1.2 To delegate authority to the Director of Services for Communities and the Director of Corporate Governance in consultation with the Convener and Vice-Convener of the Finance and Budget Committee to decide, in accordance with established evaluation criteria of the Zero Waste Project, at the point of selection of Detailed Tenders, if the injection of public capital represented the optimal value for money solution and to pursue said injection, including entering into a suitable legal agreement with Midlothian Council should that be the case.
- 3.2 On 27 November 2014 the Committee agreed:
  - 3.2.1 to approve the appointment of FCC Medio Ambiente SA (FCC) as Preferred Bidder and, subject to Midlothian Council approving a similar recommendation, to authorise the Acting Director of Services for Communities to award the residual waste contract to FCC once the final documentation had been completed in line with the contents of the report; and
  - 3.2.2 to authorise the Acting Director of Services for Communities to sign the required documents including those set out in the report on behalf of the City of Edinburgh Council, and designated the Acting Director of Services for Communities as the proper officer to execute the documents, in each case subject to such amendments as the proper officer deemed appropriate:
    - 3.2.2.1 the Project Agreement with FCC;
    - 3.2.2.2 the inter-authority agreement with Midlothian Council dealing with the contract management regime between the two Councils for the residual waste treatment (“Inter-Authority Agreement”); and
    - 3.2.2.3 all other ancillary documentation relative to the Zero Waste Project (ZWP).
- 3.3 The offer of a Capital Contribution was taken up by both bidders at the Detailed Tender Stage and the solution of the Preferred Bidder, FCC, is for the onsite assets at Millerhill to revert to the Partner Councils ownership at the end of the concession. The exact Capital Contribution will not be known until Financial Close due to factors including the Euro exchange rate with Sterling but it will be in line with that agreed by the Councils, ie not to exceed 30% of the cost of the asset, which at the Final Tender point the Capital Contribution was estimated to be in the order of £34.470m (shared - the City of Edinburgh Council £27.576m / Midlothian Council £6.894m.)
- 3.4 The procurement is now reaching the stage of Financial Close when the Project documentation requires to be entered into.

In order to ensure that the appropriate authority is in place prior to entering into the contract, Committee is asked to delegate authority to the Executive Director of Place to enter into and sign the required contractual documentation.

## **4. Measures of success**

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- 4.1 Compliance with legislation and accountable decision-making.

## **5. Financial impact**

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- 5.1 Following Financial Close, The Council's Capital Investment Programme will require revision to include the amount required to fund the injection, timed to occur in late 2019.
- 5.2 The magnitude of the City of Edinburgh Council's proportion, as reported to Council on 14 March 2013, was expected to be in the order of £33.6m. Based on Final Tenders the proportion is now expected to be closer to £27.576m.
- 5.3 The estimated capital contribution would be funded fully by borrowing and the overall loan charges associated with this expenditure over a 25 year period would be a principal amount of £27.576m and interest of £24.824m, resulting in a total cost of £52.4m based on a loans fund interest rate of 5.5% (projected loans fund rate at time of making the contribution). The annual loan charges would be £2.096m.
- 5.4 The revenue cost of funding this borrowing, will as reported previously, be contained within the reduction to the current landfill budget which will arise from the Annual Unitary Charge (cost per tonne) reductions that injection would realise.

## **6. Risk, policy, compliance and governance impact**

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- 6.1 The appropriate authority is in place prior to entering into the contract.

## **7. Equalities impact**

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- 7.1 There are no direct equality impacts as a result of this report.

## **8. Sustainability impact**

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- 8.1 There are no direct sustainability impacts as a result of this report.

## **9. Consultation and engagement**

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- 9.1 This report has been prepared in consultation with Finance and Legal Services.

## 10. Background reading/external references

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Finance and Resources Committee Report, 27 November 2014, Zero Waste: Edinburgh and Midlothian - Award of Residual Waste Treatment Contract.

Zero Waste: Edinburgh and Midlothian – Residual Waste Treatment Progress Report, Transport and Environment Committee, 14 January 2014

Zero Waste: Edinburgh and Midlothian – Power Purchase, City of Edinburgh Council, 30 May 2013

Zero Waste: Edinburgh and Midlothian – Capital Contributions, City of Edinburgh Council, 14 March 2013

Zero Waste: Edinburgh and Midlothian – Award of Food Waste Treatment Contract, City of Edinburgh Council, 13 December 2012

Zero Waste Project: Purchase of Land – Finance and Budget Committee, 29 November 2012

Zero Waste: Edinburgh and Midlothian – update to the Transport, Infrastructure and Environment Committee, 21 February 2012

Zero Waste: Edinburgh and Midlothian Commencement of Procurement – The City of Edinburgh Council, 14 October 2010

Zero Waste: Edinburgh and Midlothian Commencement of Procurement – Transport, Infrastructure and Environment Committee, 21 September 2010

Zero Waste Project – Progress Report – The City of Edinburgh Council, 15 October 2009

Zero Waste Project – Progress Report – Transport, Infrastructure and Environment Committee, 22 September 2009

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## 11. Links

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<b>Coalition pledges</b>	P49, P50
<b>Council outcomes</b>	C07, C08
<b>Single Outcome Agreement</b>	S01, S04
<b>Appendices</b>	